No. 17-333

In the Supreme Court of the United States

O. JOHN BENISEK, EDMUND CUEMAN, JEREMIAH DEWOLF, CHARLES W. EYLER, JR., KAT O'CONNOR, ALONNIE L. ROPP, *and* SHARON STRINE,

Appellants,

v.

LINDA H. LAMONE, *State Administrator of Elections, and* DAVID J. MCMANUS, JR., *Chairman of the Maryland State Board of Elections,*

Appellees.

On Appeal from the United States District Court for the District of Maryland

JOINT APPENDIX
VOLUME I OF IV (JA1 – JA350)

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Appeal Docketed Sept. 1, 2017
Jurisdiction Postponed Dec. 8, 2017

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UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

O. JOHN BENISEK, ET AL.,
Plaintiffs,
v.
LINDA H. LAMONE, *Administrator, Maryland State Board of Elections, et al.*,
Defendants.

No. 1:13-cv-03233-JKB

NO.	DATE	DESCRIPTION
1	11/05/2013	COMPLAINT against Linda H. Lamone, Bobby S. Mack, filed by O. John Benisek, Maria B. Pycha, Stephen M. Shapiro (attachments omitted).
		* * *
5	11/20/2013	MOTION for Leave to File Amended Complaint by O. John Benisek, Maria B. Pycha, Stephen M. Shapiro (attachments omitted).
		* * *
10	12/02/2013	PAPERLESS ORDER granting 5 Motion for Leave to File Amended Complaint; granting 6 Motion for Extension of Time to Answer. All

NO.	DATE	DESCRIPTION
		Defendants' answers due on or before 12/17/13. Signed by Judge James K. Bredar.
11	12/02/2013	AMENDED COMPLAINT against Linda H. Lamone, Bobby S. Mack, filed by O. John Benisek, Maria B. Pycha, Stephen M. Shapiro (attachments omitted).
		* * *
13	12/17/2013	MOTION to Dismiss for Failure to State a Claim by Linda H. Lamone, Bobby S. Mack Responses due by 1/3/2014 (attachments omitted).
		* * *
18	12/31/2013	RESPONSE in Opposition re 13 MOTION to Dismiss for Failure to State a Claim filed by O. John Benisek, Maria B. Pycha, Stephen M. Shapiro (attachments omitted).
19	01/17/2014	REPLY to Response to Motion re 13 MOTION to Dismiss for Failure to State a Claim filed by Linda H. Lamone, Bobby S. Mack.
		* * *
21	04/08/2014	MEMORANDUM. Signed by Judge James K. Bredar.

NO.	DATE	DESCRIPTION
22	04/08/2014	ORDER granting 13 Motion of defendants to Dismiss for Failure to State a Claim. Signed by Judge James K. Bredar.
23	04/28/2014	NOTICE OF APPEAL as to 22 Order on Motion to Dismiss for Failure to State a Claim, 21 Memorandum Opinion by O. John Benisek, Maria B. Pycha, Stephen M. Shapiro.
		* * *
26	10/07/2014	JUDGMENT of USCA (certified copy) "AFFIRMING" the judgment of the District Court as to 23 Notice of Appeal filed by O. John Benisek, Stephen M. Shapiro, Maria B. Pycha.
27	10/17/2014	STAY OF MANDATE of USCA as to 23 Notice of Appeal filed by O. John Benisek, Stephen M. Shapiro, Maria B. Pycha.
28	11/12/2014	ORDER of USCA "DENYING" petition for rehearing and rehearing en banc as to 23 Notice of Appeal filed by O. John Benisek, Stephen M. Shapiro, Maria B. Pycha.
29	11/20/2014	MANDATE of USCA as to 23 Notice of Appeal filed by O. John Benisek, Stephen M. Shapiro, Maria B. Pycha.

NO.	DATE	DESCRIPTION
		* * *
31	12/08/2015	JUDGMENT of US Supreme Court reversing and remanding case for further proceedings consistent with this opinion as to 23 Notice of Appeal filed by O. John Benisek, Stephen M. Shapiro, Maria B. Pycha.
32	01/08/2016	NOTICE of Appearance by Michael B. Kimberly on behalf of All Plaintiffs.
33	01/12/2016	ORDER of USCA vacating the judgment of the district court and remanding the case as to 23 Notice of Appeal filed by O. John Benisek, Stephen M. Shapiro, Maria B. Pycha.
34	01/12/2016	JUDGMENT of USCA vacating the judgment of the district court and remanding to the district court for further consideration (certified copy) as to 23 Notice of Appeal filed by O. John Benisek, Stephen M. Shapiro, Maria B. Pycha.
		* * *
37	02/03/2016	MANDATE of USCA as to 23 Notice of Appeal filed by O. John Benisek, Stephen M. Shapiro, Maria B. Pycha.

NO.	DATE	DESCRIPTION
38	02/03/2016	Correspondence from Judge Bredar to Judge Traxler re: three-judge panel.
39	02/04/2016	THREE JUDGE PANEL ORDER Designating the Honorable Paul V. Niemeyer, United States Circuit Judge for the Fourth Circuit; the Honorable Ellen Lipton Hollander, United States District Judge for the District of Maryland; and the Honorable George L. Russell, III, United States District Judge for the District of Maryland, to serve in the hearing and determination of this matter. Signed by Judge Chief Judge William B. Traxler, Jr.
40	02/16/2016	MOTION for Leave to File *Second Amended Complaint* by O. John Benisek, Maria B. Pycha, Stephen M. Shapiro Responses due by 3/4/2016 (attachments omitted).
41	02/16/2016	NOTICE of Appearance by Paul Whitfield Hughes on behalf of O. John Benisek, Maria B. Pycha, Stephen M. Shapiro.
42	02/18/2016	REVISED THREE JUDGE PANEL ORDER Designating the Honorable Paul V. Niemeyer,

NO.	DATE	DESCRIPTION
		United States Circuit Judge for the Fourth Circuit; the Honorable James K. Bredar, United States District Judge for the District of Maryland; and the Honorable George L. Russell, III, United States District Judge for the District of Maryland, to serve in the hearing and determination of this matter. Signed by Chief Judge William B. Traxler, Jr.
43	03/03/2016	ORDER setting a simultaneous scheduling hearing; Directing the Benisek matter is now recaptioned and the case title in this Court going forward will be Shapiro v. McManus and the Clerk is directed to amend the docket; granting 40Motion of plaintiffs for Leave to File an amended complaint. Signed by Judge James K. Bredar.
44	03/03/2016	SECOND AMENDED COMPLAINT against Linda H. Lamone, David J. McManus, Jr., filed by Maria B. Pycha, Stephen M. Shapiro, O. John Benisek, Jeremiah DeWolf, Sharon Strine, Charles W. Eyler, Alonnie L. Ropp, Edmund Cueman, Kat O'Connor (attachments omitted).

NO.	DATE	DESCRIPTION
		* * *
49	03/24/2016	Consent MOTION for Extension of Time by Linda H. Lamone, David J. McManus, Jr. Responses due by 4/11/2016 (attachments omitted).
50	03/25/2016	ORDER granting 49 Motion of defendants for Extension of Time to respond to Second Amended Complaint. Signed by Judge James K. Bredar.
51	04/20/2016	MOTION to Dismiss for Failure to State a Claim by Linda H. Lamone, David J. McManus, Jr. (attachments omitted).
52	04/22/2016	Four-Judge Court Hearing held on 4/22/2016 before Judges James K. Bredar, Paul V. Niemeyer, Ellen L. Hollander, and George Levi Russell, III.
53	04/22/2016	MEMORANDUM to Counsel re dates for further proceedings. Signed by Judge James K. Bredar.
		* * *
55	04/26/2016	Joint MOTION for Extension of Time *of Briefing Deadlines* by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Maria B. Pycha, Alonnie L. Ropp, Stephen

NO.	DATE	DESCRIPTION
		M. Shapiro, Sharon Strine Responses due by 5/13/2016 (attachments omitted).
56	04/26/2016	ORDER granting 55 Joint Motion to Extend Filing Deadlines. Signed by Judge James K. Bredar.
		* * *
68	05/20/2016	RESPONSE in Opposition re 51 MOTION to Dismiss for Failure to State a Claim filed by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Maria B. Pycha, Alonnie L. Ropp, Stephen M. Shapiro, Sharon Strine.
		* * *
82	06/21/2016	REPLY to Response to Motion re 13 MOTION to Dismiss for Failure to State a Claim filed by Linda H. Lamone, David J. McManus, Jr.
83	06/29/2016	MOTION for Leave to File *Surreply in Opposition to Motion to Dismiss* by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Maria B. Pycha, Alonnie L. Ropp, Stephen M. Shapiro, Sharon Strine Responses due by 7/18/2016.

NO.	DATE	DESCRIPTION
84	07/01/2016	ORDER Granting 83 Motion for Leave to File Surreply. Signed by Judge James K. Bredar.
85	07/01/2016	SURREPLY filed by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Maria B. Pycha, Alonnie L. Ropp, Stephen M. Shapiro, Sharon Strine to 51 MOTION to Dismiss for Failure to State a Claim.
		* * *
87	07/12/2016	Three-Judge Court Hearing / Motion Hearing held on 7/12/2016 re 51 MOTION to Dismiss for Failure to State a Claim filed by Linda H. Lamone, David J. McManus, Jr. before Judge Paul V. Niemeyer, Judge James K. Bredar and Judge George Levi Russell, III.
88	08/24/2016	OPINION.
89	08/24/2016	ORDER denying 51 Motion of defendants to Dismiss the second amended complaint. Signed by Judge James K. Bredar on Behalf of the Three Judge Court.
		* * *
96	09/07/2016	ANSWER to 44 Amended Complaint, by Linda H. Lamone, David J. McManus, Jr.

NO.	DATE	DESCRIPTION
		* * *
101	10/12/2016	STIPULATION re 99 Miscellaneous Correspondence *Stipulated Scheduling Order* by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Maria B. Pycha, Alonnie L. Ropp, Stephen M. Shapiro, Sharon Strine.
102	10/13/2016	PAPERLESS ORDER re 101 Stipulation, filed by Edmund Cueman, Stephen M. Shapiro, Sharon Strine, Alonnie L. Ropp, O. John Benisek, Jeremiah DeWolf, Maria B. Pycha, Charles W. Eyler, Kat O'Connor : The STIPULATED SCHEDULING ORDER (ECF No. 101) is APPROVED. The next TELEPHONE DISCOVERY CONFERENCE will be held on 11/15/16 at 12:00 p.m. Counsel for the Defendants shall arrange for and initiate the conference call to Chambers. The agenda for the call shall be as stated in the Stipulated Scheduling Order. Signed by Judge James K. Bredar.

NO.	DATE	DESCRIPTION
103	11/14/2016	STATUS REPORT *(Joint)* by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Maria B. Pycha, Alonnie L. Ropp, Stephen M. Shapiro, Sharon Strine.
104	11/14/2016	STIPULATION *(Joint Stipulations of Fact and Law)* by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Maria B. Pycha, Alonnie L. Ropp, Stephen M. Shapiro, Sharon Strine (attachments omitted).
105	11/15/2016	STIPULATION of Dismissal *of Plaintiffs Maria A. Pycha and Stephen M. Shapiro* by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Maria B. Pycha, Alonnie L. Ropp, Stephen M. Shapiro, Sharon Strine.
106	11/16/2016	ORDER Approving 105 Stipulation of Dismissal of Plaintiffs Maria A. Pycha and Stephen M. Shapiro. Signed by Judge James K. Bredar.
107	11/16/2016	ORDER directing Clerk to amend case caption. Signed by Judge James K. Bredar.

NO.	DATE	DESCRIPTION
108	11/16/2016	SCHEDULING ORDER; Status Report due by 3/24/2017. Signed by Judge James K. Bredar.
109	12/30/2016	MOTION to Intervene by Stephen M. Shapiro (attachments omitted).
		* * *
111	01/04/2017	Corrected MOTION to Compel *Non-Parties' Production of Documents and Deposition Testimony* by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
112	01/09/2017	MOTION for Protective Order *to quash non-party deposition subpoenas* by Thomas V. Mike Miller, Jr, Michael E. Busch, Richard Stewart, Jeanne Hitchcock (attachments omitted).
113	01/09/2017	Consent MOTION to Shorten Time by Michael E. Busch, Jeanne Hitchcock, Linda H. Lamone, David J. McManus, Jr., Thomas V. Mike Miller, Jr, Richard Stewart, Richard S. Madaleno, Jr (attachments omitted).

NO.	DATE	DESCRIPTION
114	01/10/2017	Corrected MOTION for Protective Order *to quash non-party deposition subpoenas* by Michael E. Busch, Jeanne Hitchcock, Thomas V. Mike Miller, Jr, Richard Stewart (attachments omitted).
115	01/10/2017	ORDER re discovery motions. Signed by Judge James K. Bredar.
		* * *
118	01/16/2017	MOTION for Protective Order *from Rule 30(b)(6) deposition notice* by Linda H. Lamone, David J. McManus, Jr. (attachments omitted).
119	01/16/2017	RESPONSE to Motion re 111 Corrected MOTION to Compel *Non-Parties' Production of Documents and Deposition Testimony* filed by Michael E. Busch, Jeanne Hitchcock, Richard S. Madaleno, Jr, Thomas V. Mike Miller, Jr, Richard Stewart (attachments omitted).
120	01/16/2017	RESPONSE in Opposition re 114 Corrected MOTION for Protective Order *to quash non-party deposition subpoenas* filed by O. John Benisek, Edmund Cueman, Jeremiah DeWolf,

NO.	DATE	DESCRIPTION
		Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
121	01/17/2017	RESPONSE in Opposition re 109 MOTION to Intervene filed by Linda H. Lamone, David J. McManus, Jr.
122	01/17/2017	RESPONSE in Opposition re 109 MOTION to Intervene filed by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine.
123	01/19/2017	REPLY to Response to Motion re 111 Corrected MOTION to Compel *Non-Parties' Production of Documents and Deposition Testimony* filed by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp.
124	01/19/2017	REPLY to Response to Motion re 112 MOTION for Protective Order *to quash non-party deposition subpoenas* filed by Michael E. Busch, Jeanne Hitchcock, Thomas V. Mike Miller, Jr, Richard Stewart (attachments omitted).

NO.	DATE	DESCRIPTION
		* * *
126	01/23/2017	MOTION for Protective Order by C. Anthony Muse, Curtis Stovall Anderson (attachments omitted).
127	01/24/2017	MOTION for Protective Order by Robert J. Garagiola (attachments omitted).
128	01/27/2017	RESPONSE in Opposition re 127 MOTION for Protective Order , 126 MOTION for Protective Order filed by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
129	01/29/2017	REPLY to Response to Motion re 127 MOTION for Protective Order , 126 MOTION for Protective Order filed by Curtis Stovall Anderson, Robert J. Garagiola, C. Anthony Muse.
130	01/30/2017	MEMORANDUM AND ORDER DENYING 109 Motion to Intervene. Signed by Judge James K. Bredar.
131	01/30/2017	RESPONSE in Opposition re 118 MOTION for Protective Order *from Rule 30(b)(6) deposition notice* filed by O. John

NO.	DATE	DESCRIPTION
		Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
132	01/31/2017	MEMORANDUM AND ORDER granting 111 Motion of plaintiffs to Compel; denying 112 Motion for Protective Order to quash non-party deposition subpoenas by Thomas V. Mike Miller, Jr, Michael E. Busch, Richard Stewart, Jeanne Hitchcock ; denying 114 Corrected Motion for Protective Order to quash non-party deposition subpoenas by Michael E. Busch, Jeanne Hitchcock, Thomas V. Mike Miller, Jr, Richard Stewart. Signed by Judge James K. Bredar.
133	02/03/2017	ORDER denying 126 Motion for Protective Order and to Quash Non-Party Deposition Subpoenas Served on Delegate Curtis S. Anderson and Senator C. Anthony Muse; denying 127 Motion for Protective Order to Modify Non-Party Deposition Subpoena Served on Robert Garagiola. Signed by Judge James K. Bredar.

NO.	DATE	DESCRIPTION
134	02/03/2017	REPLY to Response to Motion re 118 MOTION for Protective Order *from Rule 30(b)(6) deposition notice* filed by Linda H. Lamone, David J. McManus, Jr. (attachments omitted).
135	02/08/2017	MOTION for Other Relief *for Order of Full Court Approving or Otherwise Directing Compliance with Discovery Orders* by O. John Benisek, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
136	02/09/2017	Joint MOTION for Extension of Time to Complete Discovery by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
137	02/09/2017	MARGINAL ORDER granting 136 Joint Motion for Extension of Time to Complete Discovery. Signed by Judge James K. Bredar.
138	02/09/2017	ORDER directing the States counsel to appear on February 10, 2017, at 3:30 p.m., in Courtroom 3D, and then and there SHOW CAUSE why the individuals and entities who are

NO.	DATE	DESCRIPTION
		the subjects of the Courts discovery orders should not be held in contempt. Signed by Judge James K. Bredar.
139	02/09/2017	MOTION for Other Relief *for Review by Three-Judge Court and for Stay* by Curtis Stovall Anderson, Michael E. Busch, Jeanne Hitchcock, Richard S. Madaleno, Jr, Thomas V. Mike Miller, Jr, C. Anthony Muse, Richard Stewart (attachments omitted).
140	02/09/2017	ORDER granting 139 Motion for Review by Three Judge Court and Stay and setting briefing schedule. Signed by Judge James K. Bredar.
		* * *
143	02/13/2017	MEMORANDUM AND ORDER granting 125 Motion to Compel Defendants Production of Documents Responsive to Plaintiffs First Set of Requests for Production, Defendants Responses to Plaintiffs First Set of Interrogatories, and Defendants Answers to Plaintiffs First Set of Requests for Admissions filed by Alonnie L. Ropp, Jeremiah DeWolf, O. John Benisek, Edmund Cueman,

NO.	DATE	DESCRIPTION
		Sharon Strine, Kat O'Connor, Charles W. Eyler. Signed by Judge James K. Bredar.
144	02/13/2017	MOTION for Reconsideration re 130 Memorandum and Order on Motion to Intervene by Stephen M. Shapiro (attachments omitted).
145	02/14/2017	MEMORANDUM AND ORDER granting 118 Motion for Protective Order from Rule 30(b)(6) deposition notice by Linda H. Lamone, David J. McManus, Jr.; the notice issued by Plaintiffs under Rule 30(b)(6) is QUASHED. Signed by Judge James K. Bredar.
146	02/14/2017	MOTION for Protective Order by Martin O'Malley (attachments omitted).
		* * *
148	02/15/2017	STIPULATION *Regarding Confidentiality of Discovery Material* by Elijah Cummings, Steny Hoyer, C.A. Dutch Ruppersberger, John Sarbanes, Chris Van Hollen.
149	02/15/2017	MEMORANDUM AND ORDER denying 144 Motion of Stephen M. Shapiro for Reconsideration. Signed by Judge James K. Bredar.

NO.	DATE	DESCRIPTION
150	02/15/2017	REPLY to Response to Motion re 109 Motion to Intervene filed by Stephen M. Shapiro.
151	02/15/2017	STIPULATED CONFIDENTIALITY ORDER. Signed by Judge James K. Bredar on 2/15/2017.
152	02/16/2017	RESPONSE in Opposition re 139 MOTION for Other Relief *for Review by Three-Judge Court and for Stay* filed by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
153	02/16/2017	MOTION for Sanctions by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
		* * *
155	02/21/2017	REPLY to Response to Motion re 139 MOTION for Other Relief *for Review by Three-Judge Court and for Stay* filed by Curtis Stovall Anderson, Michael E. Busch, Jeanne Hitchcock, Richard S. Madaleno, Jr, Thomas V. Mike Miller, Jr, C. Anthony Muse, Richard Stewart.

NO.	DATE	DESCRIPTION
		* * *
157	02/28/2017	PAPERLESS ORDER re 139 MOTION for Other Relief *for Review by Three-Judge Court and for Stay* filed by Jeanne Hitchcock, Curtis Stovall Anderson, Richard Stewart, C. Anthony Muse, Richard S. Madaleno, Jr., Michael E. Busch, Thomas V. Mike Miller, Jr.: IT IS ORDERED THAT counsel for the parties participate in oral argument during a hearing before the three-judge Court on Monday, March 6, 2017, at 2 p.m., in Courtroom 1A, United States Courthouse, Baltimore, Maryland. The Court will not take evidence during the hearing. The Court anticipates that the hearing will last for approximately one hour. To the extent they have not already done so, consistent with the Court's ECF policies, the parties will supply paper courtesy copies of any filing (including prior filings) that, together with exhibits, has fifteen or more pages; further, they shall ensure a sufficient number of copies has been provided to the Court for

NO.	DATE	DESCRIPTION
		all three judges. Signed by Judge James K. Bredar.
158	02/28/2017	RESPONSE in Opposition re 146 MOTION for Protective Order filed by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine.
159	03/02/2017	RESPONSE in Opposition re 153 MOTION for Sanctions filed by Curtis Stovall Anderson, Michael E. Busch, Jeanne Hitchcock, Thomas V. Mike Miller, Jr, C. Anthony Muse, Martin O'Malley, Richard Stewart (attachments omitted).
160	03/02/2017	RESPONSE in Opposition re 153 MOTION for Sanctions filed by Linda H. Lamone, David J. McManus, Jr. (attachments omitted).
161	03/03/2017	Joint MOTION for Extension of Time to Complete Discovery *and Extend Deadlines for Expert Witness Disclosures*by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).

NO.	DATE	DESCRIPTION
162	03/03/2017	PAPERLESS ORDER granting 161 Motion for Extension of Time to Complete Discovery. The modified deadlines shall be as stated in the motion. Signed by Judge James K. Bredar.
163	03/06/2017	Three-Judge Court Hearing held on 3/6/2017 before Judge James K. Bredar, Judge Paul V. Niemeyer and Judge George L. Russell, III.
164	03/07/2017	NOTICE by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine re 153 MOTION for Sanctions *Withdrawal of Motion for Sanctions.*
165	03/07/2017	PAPERLESS ORDER WITHDRAWING AND DENYING AS MOOT 153 Motion for Sanctions. Signed by Judge James K. Bredar.
166	03/13/2017	MEMORANDUM AND ORDER directing three-judge court of Judge Niemeyer, Judge Bredar, and Judge Russell affirms the orders of Judge Bredar dated January 31, 2017, and February 3, 2017. Signed by Judge Paul V. Niemeyer.

NO.	DATE	DESCRIPTION
167	03/13/2017	REPLY to Response to Motion re 146 MOTION for Protective Order filed by Martin O'Malley.
168	03/16/2017	MEMORANDUM AND ORDER denying 146 Motion for Protective Order and to Quash Non Party Deposition Subpoena Served on Former Governor Martin OMalley; the request for a stay is MOOT. Signed by Judge James K. Bredar.
169	03/16/2017	ORDER directing the stay of 143 Memorandum and Order is hereby LIFTED. Signed by Judge James K. Bredar.
170	03/27/2017	Joint MOTION for Extension of Time to Complete Discovery *and Extend Deadlines for Expert Witness Disclosures*by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine.
171	03/28/2017	PAPERLESS ORDER granting 170 Motion for Extension of Time to Complete Discovery. The modified deadlines are as stated in the motion. Signed by Judge James K. Bredar.

NO.	DATE	DESCRIPTION
172	03/30/2017	STIPULATION *for Protective Order* by Michael E. Busch, Linda H. Lamone, Richard S. Madaleno, Jr, David J. McManus, Jr., Thomas V. Mike Miller, Jr.
173	03/31/2017	STIPULATED ORDER REGARDING CONFIDENTIALITY OF DISCOVERY MATERIAL. Signed by Judge James K. Bredar.
174	05/02/2017	Joint MOTION for Extension of Time *for Expert Disclosures* by Linda H. Lamone, David J. McManus, Jr.
175	05/03/2017	PAPERLESS ORDER granting 174 Motion for Extension of Time. The Motion is GRANTED. The schedule is MODIFIED as jointly requested. Signed by Judge James K. Bredar.
176	05/31/2017	Joint MOTION for Extension of Time to Complete Discovery by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine.
177	05/31/2017	MOTION for Preliminary Injunction, MOTION TO ADVANCE AND CON-

NO.	DATE	DESCRIPTION
		SOLIDATE THE TRIAL ON THE MERITS by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
		* * *
179	06/01/2017	PAPERLESS ORDER granting 176 Motion for Extension of Time to Complete Discovery. Signed by Judge James K. Bredar.
180	06/02/2017	STATUS REPORT *(Joint)* by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine.
181	06/05/2017	MOTION for Extension of Time by Linda H. Lamone, David J. McManus, Jr. (attachments omitted).
182	06/08/2017	ORDER granting 181 Motion of defendants for Extension of Time to file their response in opposition to plaintiffs' motion for preliminary injunction and in the alternative for summary judgment and to file defendants' cross-motion for summary judgment. Signed by Judge James K. Bredar.

NO.	DATE	DESCRIPTION
183	06/08/2017	MOTION for Leave to File a brief as amicus curiae by Stephen M. Shapiro (attachments omitted).
		* * *
185	06/28/2017	ORDER Setting date for hearing on ECF 177 Plaintiffs Motion for Preliminary Injunction and Motion to Advance and Consolidate the Trial on the Merits; Directing the parties to submit simultaneous briefs addressing the appropriateness of a stay to be filed on or before Tuesday, July 11, 2017; Denying 183 Motion for Leave to File an Amicus Brief; Granting 184 Joint Motion to Enlarge Page Limits. Signed by Judge James K. Bredar.
186	06/30/2017	Cross MOTION for Summary Judgment *and Reponse in Opposition to Plaintiffs' Motion for Preliminary Injunction and, in the Alternative, for Summary Judgment* by Linda H. Lamone, David J. McManus, Jr. (attachments omitted).
187	06/30/2017	STATUS REPORT by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine.

NO.	DATE	DESCRIPTION
		* * *
190	07/06/2017	ORDER Setting agenda items for July 14 2017 hearing; denying 189 Motion for Leave to File a Brief as Amicus Curiae. Signed by Judge James K. Bredar.
191	07/10/2017	REPLY to Response to Motion re 186 Cross MOTION for Summary Judgment *and Reponse in Opposition to Plaintiffs' Motion for Preliminary Injunction and, in the Alternative, for Summary Judgment*, 177 MOTION for Preliminary Injunction, MOTION TO ADVANCE AND CONSOLIDATE THE TRIAL ON THE MERITS , RESPONSE in Opposition filed by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine (attachments omitted).
		* * *
195	07/11/2017	Correspondence Correcting Earlier Submission: 191 Reply to Response to Motion,,,, Response in Opposition to Motion (attachments omitted).

NO.	DATE	DESCRIPTION
196	07/12/2017	STIPULATION *of the Parties* by Linda H. Lamone, David J. McManus, Jr.
197	07/14/2017	Three-Judge Court Hearing held on 7/14/2017 before Judge Paul V. Niemeyer, Judge James K. Bredar and Judge George L. Russell, III.
198	07/20/2017	Consent MOTION for Extension of Time *for Reply* by Linda H. Lamone, David J. McManus, Jr. (attachments omitted).
199	07/20/2017	ORDER granting 198 Consent Motion of defendants to extend time to file their reply in support of their cross-motion for summary judgment. Signed by Judge James K. Bredar.
		* * *
201	08/01/2017	REPLY to Response to Motion re 186 Cross MOTION for Summary Judgment *and Reponse in Opposition to Plaintiffs' Motion for Preliminary Injunction and, in the Alternative, for Summary Judgment* filed by Linda H. Lamone, David J. McManus, Jr. (attachments omitted).

NO.	DATE	DESCRIPTION
202	08/24/2017	MEMORANDUM Before NIEMEYER, Circuit Judge, and BREDAR and RUSSELL, District Judges.
203	08/24/2017	ORDER denying 177 Motion of plaintiffs for Preliminary Injunction. Signed by Judge James K. Bredar.
204	08/24/2017	ORDER ENTERING STAY; 177 Motion for Summary Judgment by plaintiffs is held in abeyance; 186 Cross-Motion by the State is held in abeyance; all further dates and deadlines are stayed. Signed by Judge James K. Bredar.
205	08/25/2017	NOTICE OF APPEAL as to 202 Memorandum Opinion, 203 Order on Motion for Preliminary Injunction, Order on Motion for Miscellaneous Relief by O. John Benisek, Edmund Cueman, Jeremiah DeWolf, Charles W. Eyler, Kat O'Connor, Alonnie L. Ropp, Sharon Strine.
206	12/18/2017	SUPREME COURT ORDER directing further consideration of the question of jurisdiction is postponed to the hearing of the case on the merits.

Deposition of Governor Martin O'Malley

[6] MARTIN O'MALLEY, having been first duly sworn, was thereafter examined and testified as follows:

EXAMINATION BY MR. RYAN:

Q. Could you state your name for the record, please?

A. Sure. My name is Martin O'Malley, O-apostrophe-M-A-L-L-E-Y. I'm the 61st Governor of Maryland.

Q. And, Governor O'Malley, what years were you the governor of the state? [7]

A. I was governor from 2007 through 2000—through January, I believe, 21st, 2015.

Q. And just a few background questions. Where do you live today?

A. I live here in the land of the free and the home of the brave.

Q. What part of Maryland do you live in?

A. Baltimore City.

Q. Okay. And are you employed?

A. I am. I'm doing a number of things. I just got done teaching up at Boston College at the law school this semester, a course on leadership and performance management, and I'm also leading a "Smart Cities" initiative for serving on the advisory board, and then I do a little consulting here and there.

Q. I'd like to—

A. I'm advising, hopefully, promising technology companies—hopefully.

Q. I'd like to turn your attention to the congressional redistricting in Maryland that took place following the 2010 census, so the 2011 congressional redistricting. [8]

A. Right.

Q. Okay? And could you describe generally for us what your role was in the redistricting process in Maryland?

A. Sure. 2000—2010 was the census, and after every census the process unfolds for redistricting and apportionment and making sure that the district borders respect the principle of One Person, One Vote. It was a process I had been through a couple of times before as a chief executive, as mayor of Baltimore. In fact we had to go from having six districts with 18 members to 14 with a single member. And this was the first time I had gone through it, but I was chief executive and the Governor of Maryland, so I was the primary driver, as in our country most governors are, in the redistricting process such as exists today in the United States.

Q. And what goals, if any, did you have with respect to the redistricting process?

A. Yeah, our goals were—our goals were several. I mean, number one was that we had to abide by the legal requirement and the responsibility of [9] accommodating the growth that had happened in Maryland and making sure that the borders honored that principle of One Person, One Vote, and that we did not—and that we did not, you know, violate any of the other constitutional prohibitions established through case law and the like in terms of representation, fairness, packing of underrepresented minority citizens and the like.

We also had the motive and in fact campaigned on it that, because redistricting in our country is a process that is driven by our elected officials—and currently in our country most of them are either Democrats or Republicans—it was—it was some-

thing that everyone was aware of in redistricting that, if there were a Republican governor, he or she would be drawing those borders in a way that was more advantageous to the Republican Party, and, if we had a Democratic governor, that I would be drawing those districts in a way that was more advantageous to our party, and that's what I did, constitutionally and legally.

Q. So you set out to draw the borders in a way [10] that was favorable to the Democratic Party.

A. Yes, among other considerations, first and foremost being our statutory obligations, and—and constitutional prohibitions against, you know, or constitutional mandates about One Person, One Vote, and the other case law I mentioned.

Q. And One Person, One Vote refers principally, am I correct, to the number of citizens in each congressional district?

A. Correct, yeah, that we—right—or, I mean, it was kind of a three-layered process, right.

So we had the House—the legislative districts, the state legislative and the Senate, and the members of Congress, and in all of those you have to be mindful not to deviate from—I forget what the actual math is, but there's some standard mathematical deviation that you're not supposed to stray from based on the latest census and the best count we have on the numbers of people living in various places, neighborhoods, jurisdictions.

Q. And did you put a process in place to advise you on redistricting matters? And we're [11] talking here about just the congressional redistricting, not the state legislative districts.

A. Okay. You don't want to talk about the state?

Q. Well, maybe if we have time we'll do that.

A. All right. The process was set out, I believe, in state law, and I believe that was state law that preceded my term of office, and that's the process we followed, so yes.

Q. Did you appoint a commission, an advisory commission?

A. I did. I appointed some of them. In other words, some of them were there by operation of state statute. I do believe that on that commission the statute lays out who shall be on that commission and which ones are at my discretion.

The Senate president, I believe, is on there by statutory mandate. That's a shall—it's not a may—and the speaker as well. And then I had the ability and I believe the discretion to appoint others. I believe it was also required that one of my appointees be a registered Republican, and that was a [12] former delegate, a man that served on our Small Business Commission for the state, James King from Annapolis, restaurant owner.

I appointed—I believe Jeanne Hitchcock was on that as well. She was our appointment secretary and had some experience in redistricting having had to have gone through—I think we did two redistrictings in the city, come to think of it. I think we did one after the census, and then I think we were forced to do another one when a petition was sent to the voters to downsize the size of the city council.

So but Jeanne's experience and because Jeanne was always somebody that did intergovernmental affairs for me as mayor and continued some of those duties as a deputy chief of staff, Jeanne was on it.

Joe Bryce, our legislative director, he was the man—my chief of all of our legislative agenda, so marriage equality, gun-safety legislation, restoring voting rights, abolishing the death penalty. It was Joe who had to work day in and day out with the Speaker's office, the Senate's President's office, and everyone else. [13]

I believe we also had—I don't know if John McDonough was on the committee, but he certainly—but he certainly was involved in the process. And Richard Stewart, a businessman from Prince George's County, was also on the commission.

And, Mr. Ryan, I could be leaving somebody out, so you'd have to—this was, like, six, going on seven years ago. So which of those people was actually on the commission and which weren't on but went to the meetings because that's what I asked them to do, I'm a little vague on.

Q. That's okay. We've got the names of the commission members. I'm just—

A. Did I leave anybody out?

Q. I'm just trying to test—I don't think so. I'm trying to test your memory a little bit—

A. It used to be better.

Q. —to help us with some future questions. Well, that happens. So let me—what was the mission of the commission?

A. The mission—I'm sorry. Can you hand me [14] that?

(Cell phone)

A. Sorry. Time out. I used to have 27,000 people who would take care of this. Let me turn this off, gentlemen, so that doesn't happen again.

Q. That's all right.

A. Witness with you—I'm sorry. What was the last question?

Q. What was the mission of the commission?

A. The mission of the commission—

Q. Yes.

A. —was to fulfill the statutory mandate of reapportioning congressional districts, mindful of the mandate of One Person, One Vote, making sure that there was not a greater—that it was as balanced as it could possibly be based on the latest census results.

Their mission was also to solicit public input on the map, hold a number of public hearings all around the state, and allow people to voice their concerns, their desires, and to work with the Senate president, the Speaker, as well as our members of [15] Congress, and liaise between them and me, as we rushed towards whatever the statutory deadline was within which to submit a map.

So that was their mission. And having done this before, it, you know, it's not a process that makes anybody happy anywhere. People whose districts aren't changed are disappointed that their district wasn't somehow made better from their individual perspective, and those whose districts are changed decide that it was a great injustice done to them. So people are never happy with this, but they are a process.

And the mission of the commission was to be as collaborative as possible and knowing that in our state, because it is still a partisan exercise, one that has to muster consensus support in both the Senate and the House, they were also—they were also doing their very best to be as collaborative as they could be knowing that, ultimately, it had to,

not only pass the Maryland General Assembly, it would also likely be taken to court, and it could well be petitioned to public referendum. [16]

I don't know how unusual that is, but there was a case—not to go down this rabbit hole—but there was a case that happened in Maryland that allowed—that made it a lot easier because of the Internet for citizens to petition any item to a public referendum if it were not connected to the budget.

So it became a great organizational tool for our brothers and sisters in The Party of Lincoln, and they petitioned to referendum all in the same year marriage equality, what else was on—The Dream Act, which, you know, I had a lot of enthusiasts signing up for the falsehood that they were peddling that we were giving free tuition to illegal immigrants, and redistricting was on the ballot at the same time.

And then through our own, you know, through our own mosh pit of compromise, we sent—I believe gaming was on the ballot that year in 2012—so we anticipated, Mr. Ryan, that the map would go through a tremendous amount of scrutiny. And that's without even mentioning the editorial, and, you know, the natural journalistic criticisms and critiques that would—that would come. [17]

So that was their—that was their mission, to do it as collaboratively as possible with as broad of a consensus as possible, being very, very mindful that we must obey all laws and obey the constitutional mandate as well as the latest interpretations in case law when it applies to redistricting.

Q. Okay. So I'm going to ask the court reporter to mark—

(Exhibit 141 marked for identification.)

Q. So we're going to hand you some exhibits today, Governor O'Malley. This has been marked as Exhibit 141, and it appears to be a press release concerning key appointments to your—or to the—well, your Governor's Redistricting Advisory Committee. And do those look like the names on the first page of the people that you appointed to the commission?

A. Yes, they do.

Q. Okay. Now once the committee, the GRAC, G-R-A-C, began its work, did you—did you meet with them during the course of their work? [18]

A. I don't recall. I probably didn't, but I would have been aware of the progress of their work and the schedule of hearings, because some of the people on this commission, in particular, Joe Bryce and Jeanne Hitchcock, were very trusted members of my administration. Our offices were all on the same floor. We were at the—we were at frequent meetings week in and week out, especially during the legislative session, as—as it rolled forward. I don't recall—I could be—I could be wrong. I don't recall ever meeting with the commission as the Commission.

Q. Okay. Did you make an effort—so you worked with Ms. Hitchcock on a regular basis, correct?

A. Every day.

Q. Right. And did you keep up with her what was going on with the Commission?

A. Yes, in a sense, and—and Joe Bryce and probably the Speaker and the Senate President and Joe McDonough, though I see Joe McDonough isn't on here, but he—but he was involved as well, having worked, you know, being from Prince George's and

I think [19] having worked at one time for Steny Hoyer, if I'm not incorrect, or at least...

Anyway, so I kept in touch with them, Mr. Ryan, but it was more on a sort of, you know, I had a sense of when their meetings were coming up, sometimes perhaps Joe Bryce would say to me, hey, people in this city, a lot of people turned out, they don't want their city split between two state legislative districts, they want one. And then at other times, you know, some people in other cities would rather have had their city split in three different ways because they had more voting strength.

So they report on things like that vaguely, but I trusted, because they're very capable people, I trusted that, you know, if there were a problem they would let me know, and, if there were some feedback I needed to hear, they would, you know, they could keep me abreast of it.

I don't recall any—I don't recall any sort of—I don't recall in the course of developing the House map or the Senate map any occasion where they said, hey, we all really need to meet with you right [20] away and talk with you about this, that or the other thing, or there has been a breakdown or something, or something we need to reconsider. They were working...the Senate president was also somebody I spoke with every day.

Keep in mind that in a 90-day session, I mean, it's like—it's like you have plates spinning on a bunch of different sticks, you know, so there are many things that are chugging down that 90-day session, and this was one of them.

Q. So the committee, The Advisory Committee, was going to give you advice on where to draw the congressional districts, correct?

A. Yes, and then—I never sat down with my pen and drew a border, but the purpose of the commission was to solicit that, distill it. They were some of my most trusted people, and they kept me regularly updated as to how the meetings went that they were holding.

I don't recall how many meetings they had. I'm guessing that they probably had at least a half dozen around the state, perhaps more, and the goal was to [21] spread the meetings out over a sufficient cut and swath of a diverse little state to get the feedback.

The most—most of the feedback I received was not about the congressional map. It was more—it was more about—the kind of running feedback I received had more to do with members of the Maryland Municipal League wanting their city to be represented by this senator or that senator or this House member or that House district, you know. So that's—that's what I vaguely recall, is that, to the extent people turned out for these hearings and in the greatest numbers and with strong opinions, it was on how the state borders would affect municipal representation in Annapolis. There was not a whole lot of feedback that I can recall seven years later about the congressional map with the exception of the anticipation that, you know, because of the population flow in our state being on this side of the largest estuary in North America, that the borders would change the most out that 270 Corridor in a kind of west-northwesterly direction from the nation's capital.

Q. So with respect to the congressional [22] redistricting, did there come a time when you decided that there would be a goal of increasing the Maryland congressional delegation from six Democrats to seven?

MS. KATZ: Objection, lack of foundation.

A. Excuse me?

MS. KATZ: You can answer the question.

A. What did you say?

MS. KATZ: I just made an objection, but you can answer the question.

Q. No, there's no judge, so she makes the objection and the judge rules on it later.

A. I understand. I just wanted to hear her basis so I could better answer your question.

Q. She hasn't—I haven't established that you know—that you know enough to answer that question, but I think I'll—I think I'm comfortable with that one.

A. Yeah, look, the redistricting process in the United States of America and most states—some notable exceptions of late, and, hopefully, more states will follow suit and go to bipartisan, nonpartisan redistricting commissions—that's what [23] they do in Iowa. They have found other ways to do it in a couple other states.—but most of the states,

I understood, from having been a lifelong Democrat and having served on the Baltimore City Council for eight years, having served as mayor, having run twice for governor, that in our state I understood very well that the redistricting process was still a partisan process, one that allowed, provided, the parameters of legality, statutory, case law, constitutional, provided those parameters

were observed, that ours was a state where that partisan motive was allowable.

So in running for governor probably many times people in the audience would ask me, you know, in Democratic circles, about redistricting and how many Congress people we might lose if Governor Ehrlich were to win the reelection and if we were not to win.

So that was something that everyone—you asked me when did I—when did I arrive at that decision. It was not a decision I made. It was a decision that was made by those that set up the statutory process that put the pen for redistricting in the hand of whichever man or woman the people [24] elected to be governor during that period of time in which redistricting happens.

Q. But there did come a time when that decision was made specifically to flip the Sixth Congressional District from Republican to Democrat, correct?

MS. KATZ: Objection, leading.

A. The—the—in this sense: we knew that our population had shifted and grown; we knew that that growth was mostly out West; we knew, to accommodate that growth, the borders would change most on the western side of the Eastern Shore. There were some who said, oh, we should extend—we should do all we can, One Person, One Vote, and the other legal parameters being observed, we should actually create some way to jump the Chesapeake Bay and draw a line in such a way that puts more voters in the Eastern Shore—more Democratic voters on the Eastern Shore—but that—that—I mean, it's a pretty big body of water, and the—and so we didn't go in that direction.

So, yes, there came a—there came a decision, [25] which everybody kind of—I don't know that there was any meeting. It became apparent from the growth patterns on the map, particularly the growth that 270 and into Frederick where actually they have more biotech jobs than in all of Baltimore now, because the growth was mostly westerly out of the Washington suburbs, most everybody understood that that would be—that the entire map on the Western Shore would kind of shift a little bit to the north and to the west.

Q. Right, but in your capacity as governor of the state, you made a decision that what you'd like to see is the Sixth District converted from a majority of Republican voters to a majority of Democratic voters; is that a fair statement?

MS. KATZ: Objection, leading.

A. Well, I think it's fair to say that, as we did the redistricting, that we knew it would impact the Sixth, and our hope was—my intention was—that it would impact it in—all things being equal—in a more positive way for our nominee, whoever that might be. [26]

There was thoughts at the time that a state senator named Rob Garagiola, who lived out that way, depending on how the borders fell—were drawn, that he would run for Congress there, but, as you guys—as you gentlemen probably know, you don't have to live in a congressional district to run for Congress from there. So the man who actually ran was a self-financed millionaire, pretty conservative Democrat who votes frequently with Wall Street interests and didn't even live in the district, but he ran for Congress there.

But, yes, it was apparent that, as we move west and along with the population, just as Frederick has grown in the natural migration—the County of Frederick, which is due northwest of Montgomery County—just as Frederick has grown with the growth of the Washington suburbs, and in that growth become more Democratic as well as more Independent, that the—that the Sixth District, when the borders were drawn, however they were drawn, would likely pick up more Democratic votes and more Independent votes.

So, yes, that was—that was something [27] well-known, acknowledged. Was a decision made? I suppose in the sense that we decided not to try to cross the Chesapeake Bay, that a decision was made to go for the Sixth. But, Mr. Ryan, keep in mind that on the Western Shore of Maryland that's where seven of the eight congressional districts are, and there was only one that was—that was Republican. The other—the other six—did I say seven? That's where seven of the eight congressional districts are. Six of them were already Democratic, and so, yes, we—everybody pretty much knew that, as we redrew the lines, it would put more Democrats and Independents into the Sixth District. And, hopefully, in the course of the campaign, I hoped, as a Democrat, that that would mean the election of another Democrat.

Q. Do you recall that approximately 350,000 residents from Montgomery County were moved into the Sixth District?

A. I don't recall that, but I wouldn't deny that.

Q. Why was that done?

A. For redistricting and the borders, I mean [28] for the redistricting process.

Q. Fair enough. And what—when you say "for the redistricting process," what specific goals were advanced by moving 350,000 Montgomery County residents into the Sixth District?

A. The Congressional representation of Montgomery County improved, the number of Democrats and Independents living in—and progressive-minded people living in the Sixth Congressional District probably increased, and, as I said before, a couple of times, and as I, you know, it was also my hope that we would—that the people would elect a Democratic Congressperson rather than a Republican at the end of this process. I felt that was, not only my responsibility, but my duty, provided we obeyed the dictates of the law constitutionally, statutorily, and the latest case law when it comes to fair representation in congressional redistricting process—in the congressional redistricting process.

Q. Was it fair to the Republicans in the Sixth District the redistricting that occurred in your view?

A. Yeah, well, that's interesting. You know, [29] if the goal—if the goal, Mr. Ryan, is to increase—if the goal is to increase the voting strength proportionally of Republican voters, and to reduce the Democratic advantage by Congressional District, the map actually resulted in, I do believe, reducing the Democratic margin in probably six—maybe seven—at least six of the eight congressional districts, and, as I—and people in the Sixth District were free to vote for whatever Congressperson they felt best represented their interests.

I mentioned that the election of John Delaney, I mean, he was—he's probably one of the more conservative members of Congress in the delegation, especially when it comes to, you know, his opinion

with regard to Wall Street and—and some of—and a lot of those sort of issues, so—

So, look, let me state unequivocally, categorically, I believe that our whole country needs to develop a better process for congressional redistricting. That was a position I took as a presidential candidate. It was a position often repeated, even probably in the course of this [30] redistricting. But the process I had and the statute I had was one that allowed for that—that set this up as a partisan exercise by statute, and, as the elected governor, I did my duty within the metes and bounds of that statute. And I am glad that Maryland elected another Democratic Congressperson, even though I frequently disagree with him on many, many issues. That's—he doesn't represent my congressional district.

Q. If I might, Governor, I want to explore a little bit with you. When you say the statute set up a partisan process, what do you mean by that?

A. I mean that the people on the Commission are all appointed by the elected governor, and that in our state we have partisan primary process for selecting, not only our nominees for governor, but also their lieutenant governor, and that the result of that partisan election is to put the chief elected executive directly in charge of running the congressional redistricting process. So that's what I mean by in statute.

It is designed—I might also add that, by [31] statute, they put the Speaker on, who is also a person elected by the members of that body, each of whom runs in partisan elections after they get through their primaries, and the same with the Senate President.

So this is not a commission that's chaired by a judge. It is not—though often—they are always subject to judicial scrutiny—it's a—that's what I mean by partisan commission, partisan statutory framework, as it is probably in, I think, 46 of the 50 states right now—at last count. I could be off on that. I can't swear to that.

(Exhibit 142 marked for identification.)

A. Thank you, Linda.

Q. Governor, you've been handed Deposition Exhibit 142, and just take a quick look at that. Do you recognize this document?

A. I do not.

Q. Okay. And do you know—

A. But I might have seen it at the time.

Q. Okay.

A. I saw a lot of documents. [32]

Q. Fair enough. Do you know who Blaine Young is?

A. Sure do.

Q. And do you recall if Mr. Young had objections to the proposed redistricting?

A. This particular Mr. Young, unlike his parents, had objections to everything I did while I was governor.

Q. Okay. And this particular letter, which is dated October 6th, 2011, concerns putting the citizens of Frederick County into different congressional districts. Is that a fair statement?

A. Hold on here.

Q. Sure.

A. (Reading from the document.) (Clarification by reporter.)

A. I'll read silently.

Yep, that's what it says. He says he doesn't want Frederick County split. It was thought that he would run for Congress, but I think he has since developed other problems.

Q. Did you respond to Mr. Young's concerns? [33]

A. I hope so.

Q. Do you remember?

A. I tried to respond to everybody. We had a policy of writing back to everybody, even people that made a habit of leveling personal ad hominem attacks on a daily basis over the radio waves at me, but we tried to respond to everybody.

Q. Okay. And—

A. I'm sure my—I'm sure the Board saw this.

I'm sure Joe Bryce saw it, and he probably would have told me, you know, probably would have told me, but, again, it wouldn't—it wouldn't have surprised me from this particular Mr. Young. Now his father is a prince, a senator from Frederick and was the mayor of Frederick, but this particular Mr. Young was a radio personality, prided himself as being a right wing sort of firebrand in the vein of a Rush Limbaugh, kind of county version.

Q. Did Mr. Young's letter that's marked as 142, did that change anything in terms of the redistricting?

A. I would—I don't know. I would doubt it. [34]

Q. Were there complaints from people in Frederick County other than Mr. Young that you recall about splitting the county?

A. I don't recall. Probably. There probably—you know, there—probably. I don't recall, though. I don't recall. Whenever—there's always two schools of thought, and this was true in city council as well when it came to city council lines in neighbor-

hoods. There were always two schools of thought. One group of neighbors didn't want their neighborhood split between two councilmen or councilpeople, and another group of neighbors absolutely wanted it split between two councilpeople because they wanted to double their odds of actually getting stuff done if they had a problem by having their neighborhood represented by two people.

So one of the frequent debates in any redistricting, whether it's city council, whether it's the House seats, the Senate seats or congressional is: will my neighborhood or county or city or town be represented by one person or two people—or in some [35] cases three.

And there is—and people have differences of opinions on that. People, like Mr. Young, who was probably looking at running for Congress, was purported to be running for Congress before he developed other problems, he would advocate for his home county because he was an elected official from Frederick County. He would, of course, naturally want his entire base to be within a new congressional district wherein, as one of the most partisan Republicans in this state, he might seek one day to run.

Q. Well, did you take his concerns seriously or did you just dismiss them as the rantings of a political partisan?

A. No, of course, I took his—I took his—I took his feedback seriously. I took everybody's feedback seriously. When you're governor, you listen to all and you have agreed to serve all, and I did my very best throughout my time as governor to treat every person with dignity and respect. How they treated others was their choice, but for my part, I [36]

mean, we—we treated everybody with dignity and respect, and I hope that he got a letter in response.

I don't know if he did. But we—unless it bypassed our correspondence process, he would have received some reply from me, especially since he was also an elected official.

Q. And the purpose of putting Frederick County to two different congressional districts was to advance the goal of a Democrat being elected from the Sixth District, correct?

MS. KATZ: Objection.

A. One goal among many.

Q. Okay.

A. The primary goal was to reapportion the congressional district lines in a way that was fair, especially in respect—in respect to the principle of One Person, One Vote.

The greatest population growth, the migration of development, housing, jobs that happened in our state in the prior ten-year period was mostly out west from Montgomery County into Frederick and even into Hagerstown in some—in some sense. So that was [37] the—that was the pattern of population growth.

I grew up in Montgomery County, in Rockville, Maryland, and going home there now, when I go back to see my mom and bring the grandkids down there, it's hard to recognize some of those suburbs north of Rockville compared to the place it was when I grew up there, and even more dramatic is the pattern of development and population march that's gone right from Montgomery County right into Frederick. So that's where the population is.

Charles County also, in fairness, Charles County has also seen some of a southern migration, but because of the peninsular effect of that Southern Maryland piece and probably the highway quality that is 270, more of the sort of bedroom community migration of population has been right into Frederick and right into the Sixth Congressional District—

Q. Okay.

A. —out of Montgomery County.

(Exhibit 143 marked for identification.)

Q. So you've been handed Exhibit 143, which is [38] a map of the Fifth Congressional District.

A. Right.

Q. Okay. And you would have looked at this—

A. Yep, at some point.

Q. Right. And you agree that this was an appropriate—these were appropriate boundaries for the Sixth Congressional District, correct?

A. Yes. I will note, though, also for the record that this is the panhandle of Maryland. This little thin part up here that's only about a mile and a half wide was not of my making. That was the result of the Calvert boys going to a border dispute with the king with bad maps. We used to go up as high as Southern Philly and Harrisburg, so that little thin part out here, that's been there for three hundred years.

Q. All right. No, I got that. You haven't redrawn the borders of the state.

A. Right.

Q. We're just talking about the congressional districts here, right?

A. Right, but, I mean, the map you've shown me [39] is, I mean, in terms of the shape of the states, it's one of those parts of our state, not unlike many of the peninsulas created by our rivering geography, that's one of those parts of the state that people, I'm sure when they drive through, ask themselves how the heck did this state ever get to have this border out here, you know.

Q. Right.

A. So, I mean, in other words, it's impossible—it's impossible from Frederick to Garrett to make that a square unless I took over Pennsylvania. That's all I was pointing out.

Q. Or Virginia.

A. Or Virginia. Truthfully, the other thing that they screwed up on, the Calverts, they were using the northern branch of the Potomac rather than the southern branch. So our original border, not only went all the way up to Harrisburg in the grant from King Charles, but it also went down—instead of the northern fork here, it actually went much more south, and it did take up a big chunk of Virginia, and they—they went—they went to the border dispute [40] with the wrong maps.

Q. So just looking at Exhibit 143, and you go pretty far—the Sixth District goes pretty far into Montgomery County.

A. It sure does, sir.

Q. Not—even all the way, maybe even including part of Chevy Chase there, right?

A. It follows mostly the east side of the 270 Corridor, yes, sir, until it gets to Washington County, and then it follows the county border due north.

Q. So could you just explain to the person on the street why not—why not put Frederick County all in the Sixth District? Wouldn't that make more sense just geographically?

A. Not when you consider so many people that live in Frederick now live—rather work—in that 270 Corridor. MedImmune, who has their headquarters—if they haven't been gobbled up in the concentration of corporations—but MedImmune, who is one of our leading biotech companies, was headquartered in Montgomery County. Their next campus [41] was out in Frederick.

So that corridor, that 270 Corridor, does unite a lot of people along that—along that route, as does—as does the biotech industry, NIH, that whole research corridor. As I mentioned earlier, Frederick now has more—even with Johns Hopkins' presence here in Baltimore City, Frederick now has more biotech jobs than Baltimore does, so . . .

Q. So in drawing the—in redistricting in 2011, you looked at commuting patterns along 270; is that—is that right?

A. Among many other factors. Among many other factors, yes, growth patterns. Generally the, yes, we looked at the growth patterns, growth being jobs, where people sleep, commuting patterns, all of that sort of stuff, yes, sir.

Q. Is it possible for you to describe for us the relative importance of converting the Sixth District to a Democratic-majority district compared to the other factors that you looked at in redistricting?

MS. KATZ: Objection, mischaracterizes and is vague and ambiguous. You can answer. [42]

A. Like hot to warm? One to ten?

Q. Yes, relative, relative considerations. A lot of considerations you took into account, right?

A. Right. There was a, yeah, it was—it was certainly—it was certainly a consideration. As governor, I was also leader of the Democratic Party.

Q. Right.

A. That's also a responsibility. It's a trust placed in me by—by the people that voted for me and gave me my party's nomination to carry into the general, and then—and then given to me by all people, Democrats, Independents and Republicans alike. And I'm sure those Independents and Republicans that did vote for me understood that I was a Democrat.

And so, first and foremost, our obligation was to fulfill our mandate by law to do the redistricting process and to do it in a timely way immediately following the census.

Second was to make sure we obeyed all of the statutory, constitutional and case law as it has developed with regard to balancing those districts and making sure that—that it was done particularly [43] respectful of One Person, One Vote and mindful not to—not to—not to discriminate in any way against underrepresented minority groups.

And then a third factor was, when we redrew this, yes, we wanted to do it in a way, all things being equal and legal and constitutional, that will make it more likely rather than less likely that a Democrat, whoever he or she is that wins the party's nomination in any of the congressional districts, is able to prevail in the general election.

So those were all part of the consideration that went into the map, along with other things, like the desire of local county officials, the desire of the

mayors, the men and women that govern the 123 municipalities in our state. Some wanted to be split between districts; some didn't want to be split between districts.

And all of those things had to be fine-tuned and done with—mindful always of the actual— the best—the best population data that we could muster from the census. No census is completely accurate, but it's the best we've done as a people. [44]

So all of those things worked into this, and it was a collaborative process. I asked the House leadership to do their best to work on it, be mindful, backup from the deadline, make sure you get people's input, make sure we have the votes to pass it, make sure in the Senate. And the same process I had asked our congressional delegation to engage in as well.

They engaged in that less successfully, and I in the end had to allocate more of my own office and staff time to getting the maps finalized, bringing in the members of Congress, hearing their—each of their individual concerns, to the extent they were willing to share them with me, and then moving forward by the deadline with a map.

Q. When you say "collaborative process," to what extent did Republicans participate in that process?

A. Well, the—you might ask the question did Democrats or Republicans participate in that—and by that you mean the members of Congress?

Q. No, Republicans in the Maryland legislature, Republicans, former Republican [45] officeholders, Republican voters, just Republicans generally. Because you said it was a collaborative process, and then you mentioned the leadership of the—

A. Right.

Q. And those are Democrats, right?

A. James King is a Republican.

Q. Mr. King being?

A. James King. Let me go back to—

Q. Right.

A. James King served as a member of the House of Delegates from 2007 to 2011, reading from Exhibit 141.

Q. All right?

A. He represented District 33A, Anne Arundel County, small business owner who employs more than a hundred Maryland residents. Recently named Business Owner of the Year by the West County Chamber of Commerce and in 2008 named Taxpayers Advocate of the Year by the Maryland Taxpayers Association.

So James was on the Commission, and James—and at the town halls, depending on where the town [46] halls or the hearings were held, there were numerous people, Republicans, Independents as well as Democrats at all of those.

Q. So, I guess, in my own mind I'm drawing a distinction between participation and collaboration. Collaboration was your word, okay, so let me see if I can get at it a different way.

What compromises did you make in the redistricting process to satisfy concerns that were expressed to you, if any, by Republicans?

A. To the extent those happened, it was mostly—I would think that it was at the commission level and with Joe Bryce and James King and the others on the borders. I don't recall particulars of that, partly because those maps went smoothly, but I'm sure that there were probably numerous accom-

modations and manners in which the map was informed by and advice taken from Democrats as well as Republicans, but always mindful. And I was clear with this, that I am the elected governor; I'm also the leader of the Democratic Party.

Q. Right. [47]

A. And as I've said many, many times here before, part of my intent was to create a map that, all things being legal and equal, would, nonetheless, be more likely to elect more Democrats rather than less.

Q. With respect to the Sixth Congressional District, were there any compromises with the Republicans on the boundaries of that district?

A. Yeah, look, the—I had asked Congressman Hoyer, as the dean of the House delegation—

Q. Yes.

A. Senator Mikulski and Senator Cardin were not about to get involved in redistricting. They're legislators. They run at wide—I mean at large—and they didn't want to go near this with a ten-foot pole. This was one of the things that never popular, nobody ever likes the map. Nobody ever likes the map—no, I shouldn't say that. Nobody ever likes the map.

So I had asked Congressman Hoyer, knowing he had many times been through the redistricting process, and since he was the dean of the House delegation, I [48] said, Congressman, would you please, mindful of our deadline, lead the effort here to inform the Commission about congressional redistricting, and do your best to come up with a map that a majority of the congressional delegation supports.

I'm sure we had conversations about, look, the natural migration is north and west out of the Washington suburbs. I told him that the Chesapeake Bay seems like a pretty natural geographic border, and I told—and so in those conversations both of us kind of understood that the redistricting and the change in the lines would mostly be affecting the Western Shore where the greatest numbers of people live and where the population growth was best.

Now, as we came up on the deadline for submitting it, I asked either Joe Bryce or John McDonough or somebody what sort of input are we getting from Congressman Hoyer and the congressional delegation. I'll check. They checked. Come back.

We're not hearing much back from them So I got on the phone and reminded Congressman Hoyer that we have a constitutional— state [49] constitution—is it constitution? I'm not allowed to ask questions.—we have a deadline coming up. I said, do you guys have any sort of draft map, any ideas, any input? Because I'm on a deadline here. He said, yeah, I've been meaning to come and talk with you about that.

So he came in the next day, and, in essence, reported that, despite his best efforts, that some members of our own delegation refused to even discuss what they, you know, even discuss what redistricting might look like. They didn't want their district changed at all.

And so I had to kind of jump-start and go into a hurry-up offense, and I invited each of the members of Congress to come to Annapolis. I would have gone to them. We were not in session and the deadline all of a sudden upon us. And so I met with

each of them individually and kind of looked over the map, explained which way the population was moving, asked them for their thoughts, their input, if they felt there were communities of interest that were important to them to keep together. Some of those—and all of [50] those conversations ultimately informed the map some kind of way.

Roscoe Bartlett, who I came to really like and respect and in many ways admire, was—came prepared with three different maps and laid them out, and we had—we had a long conversation, and I looked at his map.

And others, Congresswoman Edwards was not willing to discuss anything about the map and felt that whatever we do in any other district is fine by her, but she did not want a single precinct of her district moved anywhere.

And then Andy Harris, who served—we served for a time together in Annapolis before he was elected to Congress out of the State Senate—I believe it was—was he minority leader of the Senate or deputy minority leader? He was in leadership in the Republican Party in the State Senate. Anyway, he came in and he was just—he really didn't have much input. He—except to reiterate what all of us already knew, which was the real growth was happening on the Western Shore and not the Eastern Shore. It [51] was moving in a westerly and northwesterly direction, and he was very happy to be—to have the Chesapeake Bay's borders, in essence, followed and respected where his congressional district is concerned.

So he didn't have a lot of input. Congressman Ruppersburger, because he serves on intelligence, though he represents the other side of the Patap-

sco mostly, very much wanted to continue to have NSA and its—the neighborhoods around NSA in his congressional district, which was not easy to accommodate. So those were some of the conversations I recall at this juncture.

Q. So Congressman Bartlett had three maps that he presented?

A. I think. He may even had more. He came prepared. He had a staff person with him too, I think.

Q. And as a result of his maps were any changes made in the maps that you ended up recommending?

A. Possibly.

Q. Do you recall any specific changes that [52] were made in response to presentations by Congressman Bartlett?

A. I don't—all of the presentations and the druthers of—of our congressional delegation, Democrats and Republicans alike, those were solicited before—before borders were drawn. So I don't mean to—I'm not evading your question, but what I can honestly say is, quite possibly, perhaps even probably, as all of that input came down and Joe Bryce and whoever the staffers were from the planning department had to sit down and actually reduce it to paper and decide this precinct there, that precinct there, and work the models and massage it, probably since Roscoe was one of the few that actually came in with a map, it probably did inform it in some kind of way.

John Delaney was irate after the eventual map came out and was absolutely positively convinced that we went out of our way to carve his million-dollar home out of the Sixth District. And I said, John, look, man, A, I had no idea you were even in-

terested in running for Congress, and, B, we're just not [53] capable of that degree of follow-through and awareness here. I mean, this is a big process with a lot of input and collaboration. I'm sure if John had gone to one of the meetings and said, hey, I really want my neighborhood in there, I'm sure that would have been something along with a mix of a million other factors that also informed the map, so...

Q. So you end up sending maps in your bill to the Maryland Legislature, correct?

A. Yes, sir.

Q. And who drew those maps?

A. To the—to the best of my knowledge, information and belief, I believe it would have ultimately—since Joe Bryce was the head of my legislative office, this was—had to be reduced to a bill in print with all of that indecipherable left by this mete and right of that bound and north and northwest and all of those things, he ultimately—it was his responsibility to make sure that the map was accurate, that it was done right, and that—and that it observed all of the constitutional and legal requirements and did not have a deviation from the One [54] Person, One Vote thing.

So, ultimately, it would have been Joe. I'm guessing, Mr. Ryan, that he probably had staff people, cartographers, mapmakers, from our department of planning, I think, and because the department of planning is also responsible for so many other things regarding census and that sort of stuff.

So, ultimately, in this hurry-up offense, after we listened to members of Congress—I believe I had Joe with me on those meetings with the Congress people. If not Joe, I had Jeanne Hitchcock. So there

was probably some—it was either Joe or Jeanne Hitchcock, probably both, with me in that sort of hurry-up solicitation of input from all the members of Congress.

Q. You were presented with proposed maps, correct?

A. Congressman Hoyer might have come in a map to which he confessed nobody supported. So when you say was I given a map, I was given a map with the caveat that—that there's no consensus supporting the congressional delegation for this map. So, in a [55] sense, yes, Congressman Hoyer I do believe or his staff person showed us a map, but it was not a map for which he had any support or consensus from anybody in the congressional delegation.

Q. Not to—not to cut you off, but your advisory committee provided you with maps, did it not?

A. Probably.

Q. Okay.

A. At some point, yeah. I mean, yeah, sure. I mean, by the end, everybody had a map because we had to reduce it to a bill and go with it.

Q. And did you know—did your advisory committee, the Governor's Redistricting Advisory Committee, rely on outside consultants in any way to come up with the maps that it presented to you?

A. I don't—I'm not aware of that. My guess is they probably got input from a lot of different people. I don't know in the hindsight of six and a half years whether we as a state paid for any sort of, you know, GIS work or math work. I thought it was mostly handled by the planning—by the Planning Department. I could be wrong on that. I don't [56] recall. I don't remember who the—who the professional help was in terms of the, you know, maps or

numbers or those sorts of things, but it's my—my best recollection is that it was staff people at the Department of Planning, but I could be wrong.

I didn't—I don't go to that level of the—it was in the middle of the legislative session. We were spinning plates. We had a lot of things we were trying to get done, including marriage equality and repealing the death penalty, and there was a lot of things going on. This was one of them, and I tended to it with actually more time than I might have liked to where the congressional map was concerned, but I did not—I was not in the room with the Department of Planning people or those that were drawing the maps. They would have come back to me at some point before we submitted, and at some point I told them, look, you can't let members of Congress read about this in the paper. You got to share with our whole delegation, Democrats and Republicans alike, the borders of the map that we—whenever we arrive at it, you got to share it with them ahead of time [57] because I'm not having them read it in the paper.

Q. Did you ever hear or were you ever told that there was a consulting firm that assisted with the drawing of the congressional district maps and that that congressional firm—I mean that that consulting firm was a firm that specialized in helping Democrats?

MS. KATZ: Objection, compound.

A. I don't recall having heard that, but it would not surprise me that—it would not surprise me that—that that would happen, nor would it surprise me that there is a consulting firm that specialized in helping Republicans that would have been helping the House Republicans with their effort to either

beat the map or prevent it from getting the requisite number of amount of support. So I know—so I don't recall that, but it would surprise me if that didn't happen at some level.

Q. Okay.

(Exhibit 144 marked for identification.)

Q. You've been handed what's been marked as [58] Exhibit 144, and if you could take a look at it.

A. Is it the talk I gave right at the beginning of Boston College that got your attention?

Q. Yes.

A. Yeah. I've seen it. I gave it. I wrote it—every word of it.

Q. And could you just confirm for me this is a speech that you wrote?

A. Every page? You didn't slip in a false one, did you?

Q. I did not.

MR. MEDLOCK: I'll represent I didn't either.

A. Okay. Accepting that this is what you printed out, this, I do believe, is a version of that talk, which I had posted on a Medium site. Yes, I hadn't—I actually hadn't seen the pictures on it. With some good pictures—yes.

Q. So you gave this—

A. I sure did. I was—I was asked to come to the Rappaport Center for Public Policy and the Law, which is at Boston College Law School. I taught a [59] course at Boston College this semester. I fly up on Sundays, come back Wednesday mornings. And the course to about 25 young, aspiring American lawyers was about performance management and leadership in the information age. They gave me the title of this sort of first talk they wanted me to

give there, which was an open forum. That's the Dean Rougeau behind there. So that was open to the entire school. And they asked me to address the topic of restoring the integrity of our Democracy, that is to say, improvements that we can make to perfect this union, especially when it comes to protecting the constitutional right to vote, which is not in the constitution, things like perhaps abandoning the Electoral College since we have now elected two presidents that lost the vote in just 16 years, public financing of elections. And one of them I also addressed was about congressional redistricting. It was a topic I have addressed many times before. I do believe, and I've left it up for your convenience, if you were to peruse my presidential campaign website, you would see—you would see similar positions and—laid out, namely [60] this, in the context of this deposition today.

That while allowing for a partisan motive in congressional redistricting is legal and constitutional, it's not what's best for our democracy. And I believe that we would be better as a country if we had nonpartisan redistricting commissions. I believe that that would—I believe that that would be the better way for our country to go. In my own state that was not the reality that I was dealing with during my time as governor, but, hopefully, another governor will be able to sign a bill that does that.

Q. So if you could turn to page 14 of 26. We're looking at the page numbers in the upper right-hand corner.

A. Yes, sir.

Q. And then at the bottom of the page where it says No. 4, there's bold language that says, "We must,

on a state-by-state basis, push for an end to gerrymandered congressional districts," and that's just the first sentence of that.

Let me just ask you: By "gerrymandered," do [61] you mean what?

A. By gerrymandered I mean districts that are drawn with a partisan motive—that are drawn, in part, with a partisan motive.

Q. And partisan in this context means to favor one political party over another; is that fair?

A. Correct.

Q. Okay.

A. Correct. And that's—which leads to the anomalous situation that you have in states like Florida, Michigan, Pennsylvania where a majority of people cast votes for Democratic Congress people, but a majority of their delegations are Republicans.

Q. And you attribute that to gerrymandering.

A. Yes, and by gerrymandering, again, I mean to—allowing for a partisan motive in the redistricting process provided one obeys the other constitutional and legal requirements. Some of those, although some of those have been—so yes.

Q. Okay. Now if you could turn to page 16 of 26, please.

A. You're skipping the North Carolina maps? [62]

Q. No, we can—

A. That's all right.

Q. So page 16 of 26 you say, at the top, "As a governor, I held that redistricting pen in my own Democratic hand," right?

A. Mm-hmm, right. I am a Democrat.

Q. Right. And you said, "I was convinced that we should use our political power to pass a map that was more favorable for the election of Democratic candidates," correct?

A. Mm-hmm.

Q. And—

A. Yes.

Q. And with respect to drawing a map that was more favorable to the election of Democratic candidates for the—for Congress, that was accomplished by redrawing the borders of the Sixth District, correct?

A. It was accomplished by redrawing virtually all of the borders except the first to accommodate the patterns of growth and population shift, and while at the same time abiding by the constitutional and legal [63] frameworks creating, yes, creating a—part of—one of the considerations I had was to create a district that was more favorable rather than less favorable to Democratic nominees, and that was true both at the—not only at the Congressional level, but in the House and the Senate map as well.

Q. Right, but focusing on the Congressional level, and when you say more favorable to Democratic candidates than Republican candidates, how do you determine that favorability? What are the criteria that you look at? What I'm driving at, of course, party registration might be one.

A. Right.

Q. What in addition to party registration do you look at?

MS. KATZ: Objection, leading.

Q. Well, let me back up. Do you look at party registration?

A. Sure.

Q. And what else do you look at?

A. We look at—I mean, you look at so many factors when you put together the map. I mean, it's [64] not only party registration, it's also—I mean, there are many factors that go into—geography, the desires of municipalities. All of it has to also be done, mindful always, of One Person, One Vote. It's like a Rubik's Cube.

You know, Mr. Ryan, when you move one precinct here and one district, it changes—it ripples through all the others, let alone if you move an entire corridor or if you move, you know, half the city. If you accede to the desire of a mayor to only be represented within one district or two, I mean, that can—they're all connected, you know. They're all connected, so you can't really move one without the other.

So there are many factors that go into it, including party registration, but also there's other considerations as well. I mean, there's a lot of people in our state who register as Independents, and in this part of our state—we sit here in Baltimore, Maryland—in this part of our state, when people register as Independents, they have a greater propensity to actually vote Republican. In other [65] parts of the state people who register as Independents are federal employees fearful of being whacked or unfairly targeted by a Republican administration, and so they register as Independents for deniability, but they're inclined to be Democrats, and they have given their life's work to building up our country's government, not to wrecking it or tearing

it apart, or, as Mr. Bannon said, what was the phrase, "dismantling The Administrative State."

Q. Right. So in looking at—in looking at precincts, neighborhoods, sections of congressional districts, you look at voting histories in addition to voting registration—party affiliation, correct?

MS. KATZ: Objection, leading.

A. Yes. I say yes, and by "you" I understand you to mean one. I mean, I didn't get to a level of—I did not—yes, one would look at all of those things when one puts together a map. Whether that one is a staffer, a member of Congress, a governor, a member of the Commission, these are all factors that come into the redistricting map.

Q. Right. [66]

A. To be entirely truthful, I never sat down at that level of granularity that you would suggest. I relied on—I relied on really capable staff people to do that—

Q. Right.

A. —and they knew that my order was clear. You had better make sure that we obey every constitutional and legal requirement in putting this map forward because it will be challenged, as, indeed, almost all of them are everywhere in the United States.

Q. Okay.

A. We also kind of expected it to go to referendum too, I think, just because that had been made so much easier by the judicial—by the judicial decision that electronic signatures work as well as paper signatures for petitioning things to referendum. And it did go to referendum, and it passed, I think, with—was it 69% of the vote? I think it was 69%.

Q. And what do you conclude from that, that 69% of the people—of the voters approved it?

A. I don't know how frequently these things go [67] to referendum. That was the first time I can remember it go to referendum. And it was certainly—The Washington Post's editorial powers, I think, printed three lead editorials with, you know, pictures of the map and urged everyone to vote against it because this wasn't, in their opinion, good government.

So it was—it was not a referendum question that—how do I say this positively—it was certainly a topic of conversation among the public.

Q. And was—was the map that was drawn ultimately, the congressional map, was that good government in your view?

A. Yes.

Q. Okay. And was the Sixth—

A. It's not the best government, though.

Q. Was the Sixth—

A. The best government, as I've said many times before, as I said on the campaign, as I said in this talk at Boston College, the best way to do it would be to have nonpartisan redistricting commissions, but, yes, from the standpoint of—and keeping in mind—keeping in mind that the estuary [68] that runs through the center of our state, yes, we did our very best with the process that we had and the map from which we began.

It's easy for people to look at our—at our—at the unique shape of our state and then look at the congressional districts within it and conclude that these are not squares, but should also look at the

map that we began with, which was also not squares.

Q. So on page 16 of your speech, Exhibit 144, there's a paragraph that says in the middle of the page, quote:

"But that doesn't mean that the antiquated partisan redistricting process—now combined with big data, geographic information systems, and micro-targeting of precinct by precinct voting trends—is good for our country as a whole, or for our country's future," end quote.

A. Right.

Q. And so in the 2011 redistricting process, [69] was—did big data, Geographic Information Systems, and micro-targeting of precinct by precinct voting trends play a role in the recommendations or the bill that you sent to the Maryland Legislature?

A. I'm sure that and many other things did, yes.

Q. Okay. And who—who was it that compiled and examined the big data, the Geographic Information Systems, and the micro-targeting of precinct by precinct voting trend, who did all that?

A. I imagine it was done at a staff level and the refining of these maps and with the staff at the Department of Planning and my own legislative director, Joe Bryce, and the input of all of those that were on the Congressional Redistricting Commission, and taking into account other factors as well, sort of historically where had a neighborhood or a county, you know, what district had they been in, what are the natural borders. I've mentioned several times about our desire not to cross the Chesapeake Bay. All of those things informed it. And I'm also—yeah, so all of those things, all of those [70] things informed the process.

Q. And how granular were you able to get with respect to where the Republican voters are? When I say "Republican voters," I mean voters who vote for Republican candidates as opposed to registration.

A. Yeah, I mean, the map had to go down to a precinct-by-precinct level.

Q. Right.

A. So we at least went down to the precinct level. I mean, that's in the metes and bounds in the language of the map. So I don't think we ran through a precinct. I could be wrong in that. I didn't get to that level of detail myself in my involvement with this.

Q. When you split Frederick County in two—

A. Well, we definitely split many counties in different congressional districts, especially the big ones where all the people live.

Q. Right. Well, of course, Montgomery County has more people than one congressional district would permit, right?

A. Right. It's the largest—I think it's [71] the largest—I think it's the most populous county in the state.

Q. Frederick County does not, though. You could put Frederick County in—keep it in the same congressional district, correct?

A. Technically perhaps you could.

Q. Right.

A. Perhaps. Perhaps.

Q. And the decision to split it was principally driven by denying Republicans that Sixth Congressional District seat, correct?

MS. KATZ: Objection, leading.

A. No, I wouldn't say primarily, but I would say, as I've said many times before, that our primary motive was to abide by our duty in statute and within the metes and bounds of the constitution—or maybe I should say constitutions—to do redistricting, but among the motives we had was, yes, drawing a map that would be more favorable rather than less favorable to potential Democratic nominees at the House level, at the Senate level, and at the Congressional level.

Your question—the call of your question [72] about Frederick, if you look at the counties that have grown by the greatest in terms of population, I do believe Frederick would be way up there, certainly—in percentage, I mean, the population growth in Frederick has been pretty big, so the population move, since, again, remembering we had decided not to go east jumping the Chesapeake Bay and going over the Bay Bridge with a little sliver, as once happened in a congressional district map—Tom McMillen could tell you about it—you know, the movement of population—the movement of congressional borders would follow the movement of population and the growth in population, and that was west, and it was west up through Frederick, out of Montgomery County and into Frederick, like-minded corridors of people in many respects, especially when it, you know, you hug that east side of the 270 Corridor.

Q. Okay. So if you turn to page 15 of your speech, the one with the North Carolina map—maps—on it, okay, and you say—you say here—there's a paragraph, "a system that digs ideological trenches around incumbents—incumbents whose approval [73] ratings, as a group, have hovered below 20%

for nearly a decade," and then immediately below that you have two examples of how gerrymandering can swing elections, correct?

A. Yes. I think three—no, two.

Q. Right. The third is—

A. Hypothetical.

Q. —nonpartisan, a non-gerrymandered map, I take it, correct?

A. I guess so. I'm not sure. I didn't—I don't think I—

Q. But your point here is that the first two maps reflect how it's done today in the majority of states, correct, the gerrymandered process?

A. Well, you know, in a majority of states, yeah, in a majority of states it is a partisan exercise. I'm not sure how many; I think it's north of 40. My guess is probably 45 states. And some states are starting to move to nonpartisan redistricting commissions, and I think that would be a positive and healthy and good thing for our nation.

I didn't have the ability to get that done [74] while I was governor. There would not have been support in my chambers to do that. But maybe, as people come to understand and become rightly and more deeply concerned about the non—the unrepresentative nature of our House of Representatives, not to mention the unrepresentative nature of the Electoral College, I think that reforms are called for, and a better one on this, which I also advocated during my all-too-brief run for President was that we move to nonpartisan redistricting commissions, and I still believe that.

Q. So do I understand you, Governor, correctly, that, look, you would prefer nonpartisan over gerrymandered congressional districts, but during the

2011 process you had no choice, you had to do—you had to take the gerrymandered approach.

MS. KATZ: Objection, mischaracterizes testimony.

A. Yeah, you—and maybe—the process that we had in our state, I don't believe I would have had the ability—now I could be wrong. Sometimes issues move quickly than any of us can judge. [75]

Q. Right.

A. And part of the judgment of any leader is to pray for the wisdom to know when the seeds of change will actually take root and flourish. So we were way—we were ahead of the curve on marriage equality, we were the first state south of the Mason-Dixon to repeal the death penalty, one of the first states to pass the DREAM Act, you know, in-state tuition for kids of undocumented parents. So on a lot of those we were able to get that done.

It was my judgment on this one that I wasn't going to be able to change this one in my time, and so we had—our process was the process that had been in place for long preceding me that allows for whoever the executive is to drive this. And I did it as best I could with as much respect for all of the stakeholders as I could. And that's why I met with each member of the congressional delegation as well.

None of us—nobody ever likes the redistricting process, but we—the—certainly as a nation, especially when we lost all of those Democratic state legislatures and all of those [76] Democratic governorships, it has had—it has had a debilitating effect on our—on our Congress. And I did the very best, given where we were, with the map we had, to accommodate growth patterns, to—and also to respect the constitutional guidelines and the legal

parameters and to have a process where we solicited a lot of input from a lot of people.

I don't think there's anybody that says we didn't return their call if they had input. Lots of people had lots of input. And then we did our very best to put forward a map. And, yes, that map, I hope, because this was part of our intent, was more favorable to Democrats rather than—rather than less favorable to Democrats. I suppose the reason why the staff person put North Carolina there is because, you know, that's another case in point of a—of a huge swing.

MR. RYAN: Why don't we take a five-minute break.

* * *

BY MR. RYAN:

Q. Governor—

A. Yes, sir.

Q. —did Congressman Stoyer provide you with maps?

A. Hoyer?

Q. Yes.

A. Probably. He probably had some. As I recall, it was a rough map, and he—and he didn't have any—any consensus support really from the congressional delegation for it, so—I believe, though, that he did—I did see some map that he had roughly laid out.

Q. Did you ask Congressman Hoyer to provide you with maps?

A. I asked him to talk to the congressional and come back to us with some input on—on how we might—on how we might do the congressional district borders as part of this process. [78]

So, yes, I was hoping he would have been a little further along, and I was hoping that he would

have had more success in getting other members of the congressional delegation on board as to at least some—some—at least some parameters of what the redistricting map might look like.

Q. And did you speak—

A. But he didn't. It was very rough.

Q. Sorry.

A. I don't know that we even—yeah, it was very rough. It felt like we were starting from scratch, honestly.

Q. Did you talk with Congressman Hoyer about particular districts, congressional districts?

A. Yes, I certainly went through feedback, asked him for the feedback he had received from other members of Congress on this, and he—and he went through that, as I—yeah, he went through where—what the input was from the various members of the congressional districts.

Q. Did you talk to him about the Sixth Congressional District? [79]

A. I talked to him about each one, including the Sixth.

Q. And what, if anything, did Congressman Hoyer say about redrawing the boundaries of the Sixth District?

A. He agreed that jumping over the Chesapeake Bay didn't make a lot of sense considering that the population shift was out the 270 Corridor, out through Montgomery County and into Frederick. I don't remember any other details of it. I remember—Here's what I remember most: I remember being profoundly disappointed that there wasn't a better—that he—that there wasn't a consensus from our congressional delegation on the metes

and bounds of this, because we had all kind of known that the population shift in our state was out that 270 Corridor, and—and that that's where the congressional lines would change the most.

Q. But just so—just so the record's clear, there was no discussion of jumping the boundaries of the Sixth District over the Chesapeake.

A. You'd be surprised at how many crazy-ass [80] ideas people came up with in the course of this.

Q. That was not an idea that was seriously considered by anyone?

A. Oh, there were many crazy-ass ideas that were not seriously considered, but there were many crazy-ass ideas.

Q. Okay. Let me ask it a better way. Your reference to jumping across the Chesapeake, that doesn't have to do with the boundaries of the Sixth Congressional District, does it?

A. It could potentially.

Q. Okay.

A. It could, but we weren't going to do that.

Q. And was—

A. I wasn't going to do that.

Q. In your discussions with Congressman Hoyer about the boundaries and—about the congressional boundaries, would it be fair to say he was not looking out for the interests of Republican voters?

MS. KATZ: Objection.

A. We—I was—as the dean of the Maryland delegation and the—and he too is a lifelong [81] Democrat, so, yes, we all—those of us in leadership positions in our party, the Speaker, the Senate President, the Democratic Dean of the Delegation, my-

self, Lieutenant Governor, we all understood that, while our—while we must fulfill our responsibility on redistricting, must be mindful of constitutional guidelines, restrictions, case law, statutes, it was also—part of our intent was to create a map that was more favorable for Democrats over the next ten years and not less favorable to them. Yes, that was clearly one of our many modus. And Congressman Hoyer also had the additional—I mean, he was a member of one of those districts too, although I guess he said the same thing to the Senate President and the Speaker.

Q. He was a member of what districts?

A. I mean he was an individual member of Congress.

Q. Oh, right.

A. So he had his, I'm sure, relationships and people he had been honored to serve for many years from towns and cities and places that are very well [82] known to him in his own district.

Q. When the district—when the new boundaries were approved and with respect to the Sixth District in—the Sixth Congressional District— did you have a view at that time of the likelihood that that district would shift to the Democratic column?

A. That was my hope.

Q. Right.

A. It depends—look, nobody has a crystal ball. That was certainly my hope, and it was part of my intent, in addition, and primarily to fulfilling my constitutional responsibilities, respecting the law, and doing all of this within the parameters of the law and the appropriate case law, as so developed, it was also my intent to create a map that would be more likely to elect or create—create a district

where the people would be more likely to elect a Democrat than a Republican, yes, this was clearly my intent.

Q. Did you have—and I guess I'm asking about degree of confidence, if you're able to describe it—that that would be the case after the lines were redrawn in the Sixth District? [83]

A. You know, the degree of confidence...honestly, Mr. Ryan, everything I thought I knew about politics I no longer know.

Q. Okay.

A. It's all piled high on my dining room table waiting for the yard sale. I might keep a couple pieces out of sentimental value, but it's hard to say. I mean, we elected a president that's not a Republican. So it's hard to say, and it's also dependent on how our Democratic primary rolled. I mean, a lot of—there were a lot of people in Annapolis—Senate President, Speaker and other people in the state legislative circles—who believed that the nominee would be Senator Garagiola, but people had a different idea, and they elected a very conservative Democratic Congressman who is outspoken in his defense of Wall Street interests and didn't even live in the district. So how confident was I? I don't know. Maybe Garagiola wouldn't have beaten Roscoe Bartlett—maybe.

Congressman Bartlett, who, as I said, you know, I actually—I came to greatly admire Roscoe [84] Bartlett. He was one of the few members who went to all of the line-of-duty funerals for our soldiers who came home in boxes from Iraq and Afghanistan, and I actually came to greatly admire him. In fact—so he had—he had various maps, and he said—in fact he said, this is a map, he said, I'm an

older guy, so you got to give me at least a couple percentage points head start on Garagiola. And so he—he had various maps and—he thought his opponent would be Garagiola too. He didn't think it would be Delaney. Nobody even knew Delaney was considering running for Congress.

Q. So did you ever—in connection with the redistricting—become familiar or hear about a metric called "Democratic performance"?

A. I am long familiar with that, because when I went to law school here back in the day I was very involved in campaigns. I was Barbara Mikulski's field director for her United States Senate race. First woman to ever be elected without succeeding her husband, I do believe, to the United States Senate.

And so I was very familiar then with a group called [85] NCEC, National Committee for an Effective Congress is what they were called then, and as a field director in a campaign, I certainly, you know, a statewide campaign, you know, was familiar with the concept of Democratic performance, which is where they take an amalgam of various candidates over the years and come up with some sort of mathematical number that they attach, which—which they believe has some sort of predictive value. In this day and age, like I said before, I'm not sure—I'm not sure—I'm not sure how much predictive value anything has.

Q. And so—

A. In other words, they look at past performance of various Democratic candidates, take an average, and I think that's what you're referring to when you say Democratic performance. And the Republicans, I mean, do the same thing, Republican per-

formance, whatever the index is. It's something that I think the members of Congress were much more cognizant of than perhaps I was.

Q. Right. And so you mentioned an outfit called NCEC? [86]

A. That's what they were called then.

Q. Who—who were they?

A. Back—back in 1986 it was some sort of, I assume, Democratic group called the National Committee for an Effective Congress. I don't know if they still exist or if they have gone through a different iteration or have a different name, but when I was—when I was a field director, when I was running campaigns, when I was in law school, that was the name of the group that was doing it.

Q. And did NCEC have any role in the 2011 congressional redistricting in Maryland as far as you know?

A. I don't know. I don't know if they still exist. If they still exist or if they exist under a different name, I'm sure they probably sent in numbers or sent in a map, or made data available to us. And I'm sure whoever their Republican counterpart is made the same sort of analysis and numbers available to our Republican brothers and sisters in the House and the Senate and in Congress.

Q. So you would expect that in a congressional [87] redistricting process, not just in Maryland but generally, there are firms that—consulting firms—that work with Democrats and consulting firms that work with Republicans—

A. Right.

Q. —to try to come up with the best possible boundaries for their respective parties.

A. Correct.

Q. All right. And if—are you aware whether the Maryland Democratic Congressional Delegation in 2011 relied on such a consulting firm, be it NCEC or some other firm?

A. I would be—I would certainly hope so and think so. For all I know it might be something done out of the DNC now, I don't know, but every member of Congress can tell you off the top of their head whatever their—Democrat or Republican—would tell you what their performance index is for their—for their congressional district.

So I would—I would imagine. I mean, I would be shocked if whoever—yeah, certainly they fired in numbers to us or shared those books. When I was [88] looking at them—this was before the Internet and stuff—it was like a giant three-ring binder of numbers and tabulations, and you had to kind of go make your own map. I'm sure—I'm sure they're better at it now.

Q. And during the 2011 process were you presented with information or data that, on its face, or you were told this was prepared by this consultant or that consultant?

A. No, I was not, that I recall.

Q. Right.

A. I was not, but we were—but my staff would have been cognizant of the number of Democratic registrants or Democratic performance, Republican performance, likely down to a precinct level. Where the information came from, I don't know.

From my involvement in the process, it was more—from my involvement in the process, I would be—I would ask a question like that, like,

what's the Democratic registration, Republican registration, but I don't—I don't ever recall seeing that big three-ring binder, and I wouldn't have at my— at [89] my—at my point of involvement, it would have been different iterations especially in the hurry-up offense of the congressional district map, and then—and then Joe Bryce would have to go back and double-check and triple-check with the bill drafters and everybody else to make sure that they got the right math right, that it didn't deviate from the One Person, One Vote mathematical, you know, whatever that deviation is, which I forget right now, but I would not have gotten involved to that level. I would—when we called our Congressional members back, we would, you know, we would certainly apprise them, and I do believe we called them back before we released the map—at least I hope so. That was my intent anyway.

Q. So just refresh my memory, if you would, please. Joe Bryce is who?

A. Joseph Bryce is the head of my—I believe we call him Director of Legislative Affairs in the Governor's office. So he would be the person, the lawyer, primarily responsible for shepherding, not only the Governor's priority bills through the House, [90] but also the budget and everything else. He was a man who would work on a daily basis with his counterparts in the Speaker's office and the Senate President's office, if we needed to deploy him to a committee chairman or to monitor hearings. Joe had to manage probably a staff of five or six. This is even in a non-congressional—I mean non-redistricting year. He would have to manage a staff of five or six spread over various subject matters that would be responsible for articulating the Governor's position on various bills that the legis-

lature would put up, the vast majority of which we don't originate, but we would—there are some things that would be a priority for the administration, like our budget or passing marriage equality, banning assault weapons, repealing the death penalty, those things would be Governor's priorities, as, indeed, this redistricting map would have been in this particular year.

Q. And Brian Remick, do you recognize that name?

A. No.

Q. R-E-M-I-C-K. [91]

A. No.

Q. Jason Gleason, is that a name that you recognize?

A. No. Did they work for me?

Q. I don't think so, or else you'd recognize them, I'm sure. Just names I've seen and I wanted to—

A. I don't—I don't remember their names. Now we would sometimes have interns come through just for the legislative—

Q. These aren't interns.

A. Okay. No, I don't remember—neither of those names rings any bell with me.

Q. Does Eric Hawkins ring any bells? And this would be in connection with the redistricting process.

A. No.

Q. Okay. Now just in terms of what you would expect your staff to do in the redistricting—in the process of coming up with the new districts or redistricting process, it would be—it would be okay for the staff to meet with the congressional delegation or the staff of the congressional [92] delegation, right—

A. They should meet with everybody they possibly could—

Q. —to collect information?

A. —and return—and also return all phone calls, yep. Yes, sir.

Q. Would that include consultants for the—for the Congressional, Democratic Congressional Delegation or the Republican Delegation?

MS. KATZ: Objection, lack of foundation.

A. Sure, I guess.

Q. Not whether they did. I'm not asking whether they did, but would that be okay?

A. Yeah, we were pretty open.

Q. No limits on their ability to gather information?

A. No. I mean, my understanding of the statute and the reason for having the public hearings was to solicit as much input as possible and not as little as possible.

Q. So I'm trying to distinguish between—sure, at public hearings—[93]

A. Mm-hmm.

Q. —but what about—by the way, I'm not saying this happened and I'm not saying there would be anything wrong if it did happen. I'm just trying to figure out what sort of the boundaries are for how information is gathered.

Suppose there's a Democratic consulting firm that's operating out of Capitol Hill that provides information to Democratic Congressional Delegations about Democratic performance or other metrics. Just assume that.

A. Right.

Q. Would it be okay for your staff to go meet with those folk?

A. Yes.

Q. Did they?

A. Don't know. I would be surprised if they didn't.

Q. You would be surprised if they did not?

A. Yeah, but I don't know. I would think most of that information is publicly available or posted on a DNC website, isn't it, by now? I mean, that's why [94] I'm not even sure if NCEC exists anymore. At the time it was considered like state-of-the-art stuff, but ...

Q. Have you ever—are you familiar with a computer program that is used in redistricting called Maptitude? Have you ever heard of that?

A. No, sir.

Q. Are you a computer guy?

A. You know, I'm not a digital native. Dag Hammarskjöld said, "time goes on, reputation increases, ability declines." I have a reputation for being a map guy, but I always relied on smart, young people around me to generate the maps of, you know, whether it was crime patterns or potholes or the Chesapeake Bay, we used GIS maps to great effect, but, no, I don't—I don't recall—I don't believe I've heard or ever played with a map called whatever—map—

Q. Maptitude.

A. Maptitude.

Q. Okay. Give me just a second.

THE WITNESS: The coffee is cold.

MS. KATZ: Yeah. [95]

THE WITNESS: It's probably bad for me.

VIDEO SPECIALIST: Keep in mind we're still rolling.

(Exhibit 145 marked for identification.)

Q. So just showing you what appears to be an email chain marked as Exhibit 145, and I asked you earlier about Brian Romick—and that's a name I think you said is not familiar to you, correct?

A. Right.

Q. Okay. And then sort of in the middle of the page there's an email that says, "Brian: OK. Have to come back to NCEC after meeting with the Governor, as I have much to do on the first day with everyone returning," and then "C," the letter C. Do you know who that is?

A. No.

Q. So nobody comes to mind that would sign their emails "C"?

A. No.

Q. Okay.

A. Nope. I don't know anybody named C. [96]

Q. And just looking at that email, does it refresh—I know you did a lot of meetings—does it refresh your recollection about any particular meeting?

A. No.

Q. Does it refresh your memory as to whether in any of the meetings you had on redistricting NCEC came up?

A. I don't have any—I don't have any particular recollection of that. I know—I know from my involvement in 1986 of NCEC. I actually didn't even recall that they still exist, but I guess by showing me this email they do still exist and they still call themselves NCEC.

It is entirely possible I might have met with them. I have no recollection of it. And sometimes—yeah, I have no recollection of ever meeting with them, but everything—everything I did was scheduled,

and they loaded me up and would give me an hour break in the middle of the day, and, other than that, I did a ton of meetings.

I don't recall meeting with them. I think if I [97] had—I don't know—I would probably remember to this day that NCEC still exists, so my guess is that—no, I don't have any recollection of that, and I don't—nor do I know who MG2590 is.

MR. RYAN: Why don't we take two minutes and see if we have anything else.

THE WITNESS: Okay.

MS. KATZ: Okay.

VIDEO SPECIALIST: The time is 12:30 p.m. We're going off the record.

(Proceedings recessed.)

VIDEO SPECIALIST: The time is 12:37 p.m., and we're back on the record.

MR. RYAN: Governor, we appreciate your time. We don't have any other questions.

THE WITNESS: Sure. Cool. Thank you, Mr. Ryan. Thank you all. Appreciate it.

MR. RYAN: Do you have any questions?

MS. KATZ: We do not. Thank you.

Q. How does—when you say analysts, what do you mean by that? What are you analyzing at NCEC Services? [17]

A. Well, we collect election data and census data, and analyze it.

Q. Can you give me an idea of some of the methods you use to analyze it? Without getting into anything proprietary. Just, generally, how you analyze it.

A. Well, we take—we collect data, historically, through different election cycles. And look for certain types of trends within the data.

Q. Can you give me an example of trends that you would look for in the data?

A. You look for voter turnout. You look to see how it's fallen off between presidential and midterm years. You look to see how different units of geography vote. Things like that.

Q. You say units of geography, could that be census blocks, precincts, congressional districts. What level are you talking about with the—

A. Well, the lowest level that's reported is the precinct level. So precincts, towns, counties, media markets. [18]

Q. Okay. And we'll get back to that in a bit. What—what's the highest level of education that you finished?

A. I attended University of Colorado, but didn't graduate, so it's high school.

Q. Okay. And how many years were you at University of Colorado?

A. Three years.

Q. And what were you majoring in, in your three years?

A. International affairs.

Q. Fair enough. I did that at Georgetown as well. And it's funny, neither of us are in international affairs currently.

A. No, we are not.

Q. Yeah. So after you left University of Colorado, what year did you leave?

A. 1985.

Q. Okay. And when you left University of Colorado in 1985, did you go into some form of employment?

A. I did. [19]

Q. Okay. Where were you employed after you left University of Colorado in 1985?

A. Immediately after that, I was employed at Clyde's of Georgetown.

Q. Nice.

A. It wasn't so nice. It was a lot of work.

Q. I worked at The Tombs. I know how you carry the plates and everything.

A. Yeah.

Q. Where—at—after you were done working at Clyde's, what was the next job you went to?

A. I worked for Senator Gary Hart in Colorado.

Q. Okay. And when did you move to work for Senator Gary Hart?

A. That would have been in 1985 right at sometime, during that time.

Q. What did you do for Senator Hart?

A. I was a staff assistant who worked the front desk, and did some constituent work.

Q. Were you in Senator Hart's D.C. office or [20] in his—one of his Colorado constituent offices?

A. His D.C. office.

Q. And how long were you in Senator Hart's—working in Senator Hart's D.C. office?

A. Through '90—or through '86, when he retired and began his second presidential run.

Q. What did you do after Senator Hart retired in 1986, where did you go to work?

A. I went to go work on his presidential campaign.

Q. Okay. And so that would be from 1986 until what, 1987, '88?

A. Right. Until he had that issue.

Q. Yes. Fair enough.

A. All right.

Q. And shortly thereafter, I suppose?

A. Right. Yes.

Q. And after Senator Hart's campaign ended, where did you go work?

A. I went—excuse me, I went to work for the Michael Dukakis campaign.

Q. And so you had that job up until the 1988 [21] election, is that right?

A. No. I was working both campaigns in Iowa, so I left the Dukakis campaign before the election.

Q. Before or after the tank?

A. Before.

Q. Good move. So after you left the Dukakis campaign, would that be 1988, to your recollection?

A. It could have been '80—it was before the Iowa caucus, so it was '87, probably.

Q. So it would be '87, yeah.

A. Yes.

Q. So after you left the Dukakis campaign, where did you go work next?

A. NCEC.

* * *

Q. You said you have a series of indices. Is one of those called the Democratic Performance Index or DPI?

A. It's—yes, Democratic performance.

Q. What does Democratic performance mean, just generally. I don't need to know anything that's proprietary about it.

A. Okay. Democratic performance is an average of how statewide candidates perform over time in competitive elections, weighted for different—weighted differently for different election years. So it's an average.

Q. So it will take into account past voting history in a state or a district, is that right?

A. That's correct.

Q. Okay. Can you sometimes have sort of species, I guess I would say, of Democratic performance, one being federal Democratic [25] performance and the other being state Democratic performance?

A. In some states, we do that, yes.

Q. What's the difference between federal Democratic performance and state Democratic performance?

A. So Democratic performance, as I said, is an average of statewide elections. The federal performance only uses federal races. State performance only us-

es state races—statewide, like constitutional offices, gubernatorial races.

Q. Why would you make that distinction? Is it sometimes the case that the federal Democratic performance is different than the state Democratic performance in a particular district?

A. Yes.

Q. What does that mean? Why would they be different?

A. Well, sometimes people vote differently at the state level for state offices than they do for federal candidates.

Q. So like ticket splitting, essentially? [26]

A. It's—it's—yeah, I mean, yeah, it's ticket splitting.

Q. Is it sometimes the case that the make-up of the electorate for a state election is different than the make up of the electorate for a federal election?

A. Well, yeah, I mean, it depends on what the election is, but sometimes a federal election is a higher profile election, and it gets more attention. Sometimes a state election, or gubernatorial election is a higher profile election. And if a Senate race, for example, is not competitive, it doesn't get as much attention. So they can be different.

Q. Okay. And then in that hypothetical you were building out, where the Senate election is not competitive, in that case, the gubernatorial election could be driving turnout in that instance, is that right?

A. That's correct, yeah.

Q. Okay. All right. Let's mark—oh, I'm sorry. Go ahead. [27]

A. And then certainly, a federal election would include presidential elections, which are the highest profile.

Q. Certainly.

A. Yeah.

Q. Okay. Let's mark the first exhibit. I think this will be 52.

(Hawkins Exhibit No. 52 was marked for identification.)

BY MR. MEDLOCK:

Q. All right, sir, I put in front of you what we've marked as Exhibit 52 to your deposition. It's a printout of a website, HTTP:/NCECServices.com. As for all exhibits that I give you today, take your time, read through it. This may be the one that takes the longest to read through. But once you're done, just let me know audibly when you're done reading the exhibit.

A. Okay.

Q. All right. So is this a copy of NCEC Services' website, as far as you understand?

A. As far as I understand. I mean, NCEC [28] Services doesn't really have much of a website presence.

Q. It's just sort of this landing page, is that right?

A. Yes.

Q. And this says that—the website says NCEC Services "specializes in electoral analysis, campaign strategy, political targeting, and GIS services." Do you see that, sir?

A. Yes.

Q. What does political targeting mean in this sentence?

A. That's the electoral targeting that I was discussing earlier.

Q. Okay. So NCEC Services does do some electoral targeting work?

A. Well, yeah, for non-federal races.

Q. I see. What does GIS services mean?

A. Geographic information systems.

Q. Can you give me an explanation of what a geographic information system is?

A. Sure. It could be anything from a [29] program that does thematic mapping to display data geographically. It could be—I mean, that's generally what it is. It could do some sort of spatial analysis, based on—I mean, I don't use it for this, but that's what it could do. I mean, you could have a point and have a—expand a circle, a ring around a certain point, to collect what the data is, or underlying data within that radius of that point, so—it has several functions, but—

Q. Have you ever heard of a program called Maptitude?

A. Yes.

Q. Is that an example of GIS software?

A. Yes, it is.

Q. What sort of GIS software does NCEC Services use currently?

A. ArcGIS and Maptitude.

Q. In 2011, what type of GIS software was NCEC Services using?

A. Maptitude and ArcGIS.

Q. Do you recall what version of Maptitude you would have been using back then? [30]

A. I don't know what version they were on.

Q. Okay. So does NCEC—we talked a little bit about the client base for NCEC Services. Does NCEC Services provide consulting services to political parties?

A. Yes.

Q. Which political parties does NCEC Services provide service—its consulting services to?

A. The Democratic Party.

Q. Has it ever provided consulting services to the Republican Party?

A. Not to my knowledge.

* * *

Q. To your knowledge, has NCEC Services ever provided consulting services to the Maryland Democratic Party? [32]

A. I'm not sure.

Q. So you're just not sure one way or the other?

A. Right, yes.

Q. It could have happened, but you can't recall?

A. Yes.

Q. Okay. Has NCEC Services ever provided consulting services to Maryland—former Maryland Governor Martin O'Malley?

A. I don't know.

Q. And again, you just don't know one way or the other?

A. I don't know.

Q. It could have happened, but you don't know, is that right?

A. I don't know. I mean—

Q. Okay. How about the Office of the Governor of Maryland? Has NCEC Services ever provided

consulting services to the Office of the Governor of Maryland?

A. I don't know. [33]

Q. Has NCEC Services ever provided consulting services of any type to any member of the Maryland House of Delegates?

A. No, I don't think so. I don't know. I mean, I don't know.

Q. Okay. So is it a no, or is it an I don't know?

A. I don't know.

Q. Okay. How about the Maryland Senate? To your knowledge, has NCEC Services ever provided consulting services to any member of the Maryland Senate?

A. I don't know.

Q. Okay. Has NCEC Services ever provided consulting services to U.S. Congressman Dutch Ruppersberger?

A. No. Well, I don't know that. I mean, that would be unusual.

Q. What makes you say—what made you change your answer?

A. Because if we were providing him targeting, it would come through at National [34] Committee for an Effective Congress.

Q. I see. To your knowledge, is the National Committee for an Effective Congress ever provided U.S. Congressman Dutch Ruppersberger with consulting services?

A. We might have provided him targeting. I don't know.

Q. Okay. You don't know off the top of your head, as you sit here today?

A. No. Right.

Q. Okay. How about U.S. Congressman Steny Hoyer. Has NCEC Services ever provided any consulting services to Congressman Hoyer or his office?

A. Can you—I mean, what type of consulting services?

Q. Electoral analysis, campaign strategy, political targeting, or GIS services?

A. Again, the political targeting would have come through the National Committee for an Effective Congress. So I don't know if NCEC would have—I don't—I don't know. [35]

Q. Has the National Committee for an Effective Congress ever provided any consulting services to U.S. Congressman Steny Hoyer or any member of his office?

A. Yes.

Q. When did that occur?

A. I'm sure we would have provided him targeting, I don't know the exact dates.

Q. Did it occur on the 2011 redistricting cycle?

A. Well, that wouldn't have come through the PAC.

Q. I see. That would come through NCEC Services, is that correct?

A. Right. Right.

Q. And you don't know whether NCEC Services provided any consulting services to U.S. Congressman Hoyer's office or U.S. Congressman Hoyer during the 2011 redistricting cycle?

MS. FROST: Objection. Misstates his answer.

THE WITNESS: I'm a little confused by [36] what you're asking me, so I apologize.

BY MR. MEDLOCK:

Q. Okay.

A. NCEC Services did work for the delegation during the redistricting. But when—the way you're framing the question is confusing me, so I apologize.

Q. Okay. That's fine. When you said NCEC Services did work for the delegation.

A. Right.

Q. What do you mean by the delegation?

A. The Democratic members of the Maryland congressional delegation.

Q. Okay. And this occurred during the 2011 redistricting cycle, is that right?

A. That's correct.

Q. And what do you mean by, did work for?

A. We analyzed plans for the members of the delegation.

Q. What type of plans?

A. Congressional redistricting plans.

Q. When you say analyzed congressional [37] redistricting plans, what type of analysis were you doing for the Democratic members of the Maryland delegation?

A. Analyzing the plan, to tell them how different districts—different options would change their districts.

Q. Anything else that you did for—in terms of analysis?

A. We worked on some alternative plans with them.

Q. When you say worked on some alternative plans, did you actually draw actual maps using GIS software?

A. Yes.

Q. What software would you have used to draw those maps?

A. Maptitude.

Q. How many maps, to your knowledge, did you draw when working with the Democratic members of Maryland's U.S. House delegation?

A. I don't know.

Q. Was it more than one? [38]

A. Yes.

Q. More than five?

A. Yes.

Q. More than 10?

A. Yes.

Q. More than 20?

A. I don't know.

Q. Somewhere between 10 and 20?

A. That sounds right.

Q. What was the purpose of drawing these maps with the U.S.—the Democratic members of Maryland's U.S. House delegation?

A. Well, after the census, the populations change in the districts. You have to equalize the population, so the purpose is equalizing the population and reconfiguring the map of Maryland.

Q. Would these maps be provided to members of Maryland's State government after they were drawn?

MS. RICE: Objection.

THE WITNESS: I don't remember doing that, no. [39]

BY MR. MEDLOCK:

Q. Do you know if anyone that you—so you—let me back up for a second. So you have a meeting with

members of Maryland's U.S. House delegation in which you draw a map on Maptitude, okay?

A. Uh-huh.

Q. What happens with that map, once it's drawn? Do you print it out and provide it to the members? Is it sent to their staff? What happens after it's drawn?

MS. FROST: Objection.

THE WITNESS: It might have been—at times, might have been printed out. It, at times, might have been sent to them. At times, it might have not gone to—gone anywhere.

BY MR. MEDLOCK:

Q. Okay. Do you have any idea what—in instances where you did send a draft map on to members of the—Maryland's U.S.—Democratic members of Maryland's U.S. House delegation, do you know what happened to that map after—that draft [40] map after you sent it on?

A. No.

MS. FROST: Objection.

THE WITNESS: No.

BY MR. MEDLOCK:

Q. So it's possible that your draft maps could have ended up in the hands of Maryland's state government, but you just don't know?

MS. FROST: Objection.

THE WITNESS: I don't know where they would have—where it would have gone.

BY MR. MEDLOCK:

Q. Okay.

A. Or if they did.

Q. What was—did the members of Maryland's U.S.—the Democratic members of Maryland's U.S. House delegation have any particular purpose in mind when you were sitting down with them to draw draft maps in Maptitude?

MS. FROST: Objection.

THE WITNESS: Yes, I mean, they wanted to get re-elected. [41]

BY MR. MEDLOCK:

Q. Did they—so they wanted their districts to improve in Democratic performance, in other words?

A. If possible, but yes.

Q. Did they have any other goals in mind, that you know of?

MS. FROST: Objection.

THE WITNESS: The main goal that they had was incumbent protection.

BY MR. MEDLOCK:

Q. Was there another subsidiary goal?

MS. FROST: Objection.

THE WITNESS: Well, Maryland is a very Democratic state, and it was felt that it was—the number of districts that were held by Democrats was underrepresented by how Democratic the state was.

BY MR. MEDLOCK:

Q. I see. And when you say the number of Democratic districts was underrepresented by how Democratic the state was, was one of the goals that you understood behind this map making process that [42] you were involved in with the Democratic members of the U.S. House delegation, to increase the number of congressional seats held by Democrats in Maryland?

MS. RICE: Objection. I'm sorry, Steve. Objection, speculation.

THE WITNESS: The goal was, first and foremost, incumbent protection. We certainly looked at the possibility, because the state is so Democratic.

BY MR. MEDLOCK:

Q. Right. Did you look at the possibility of changing the make-up of Maryland's U.S. House delegation from six Democrats and two Republicans to seven Democrats and one Republican?

A. Yes, we did. And again, because it's so Democratic, we—yes, we did that. We even looked at, it's so Democratic—the state is so Democratic, if you didn't have to worry about incumbent protection, you possibly could create eight districts there, it's so Democratic.

Q. So it was possible, with the information you had, to draw an 8-0 map, is that right? [43]

A. Well, not really in reality, because incumbent protection is the major focus of the—was the major focus of this.

Q. When you say incumbent protection, are you talking about protecting all incumbents, or just Maryland—members of Maryland's Democratic U.S. House delegation?

A. We were looking—we were working with the members of the Democratic House delegation.

Q. Okay. So when you were talking about incumbent protection, did you consider protecting U.S. Congressman Roscoe Bartlett, who was an incumbent?

A. No.

Q. Did you consider protecting U.S. Congressman Andy Harris, who was an incumbent?

A. Well, no. I guess not straight off, no.

Q. No. Okay. Did you ever—when you were working with the members of Maryland's U.S. House delegation, ever hear of something referred to as a 7-1 map?

A. Yes. [44]

Q. What does 7-1 map mean?

A. That would be seven Democrats, one Republican.

Q. And in the versions of the 7-1 map that you drew, was Maryland's 6th Congressional District in western Maryland, was that changed from a Republican district to a Democratic district?

A. Can you say that—state that again?

Q. Sure. Fair enough. That might be a B plus question. So let me just break it down. You had versions of the map that were called 7-1 maps, is that right?

A. Right. Yes.

Q. And that means seven Democrats, one Republican?

A. Right.

Q. And there were, at the time, two—in Maryland's U.S. House delegation, two Republicans and six Democrats, correct?

A. Yes.

Q. And one of those Republicans was Roscoe Bartlett, who was in Maryland's 6th Congressional [45] District in western Maryland, correct?

A. Yes.

Q. And the other was Andy Harris, and he was in the 1st District, and sort of takes most of the Eastern Shore of Maryland, correct?

A. Yes.

Q. So if you were going to create a 7-1 map, you either had to create a map that was less favorable to Ros-

coe Bartlett or less favorable to Andy Harris, is that right?

A. Yes.

Q. So one option would be to improve the Democratic performance in Maryland's 1st Congressional District, which is the Eastern Shore district held by Andy Harris, is that right?

A. Yes, although we didn't rely totally on Democratic performance.

Q. Sure. Well, that's a good point. One option available to you and the Democratic members of Maryland's U.S. House delegation was to change the boundaries of Maryland's 1st Congressional District in such a way that it was unfavorable to [46] Andy Harris, is that right?

A. Well, I don't—I mean, it would be less—it would be more Democratic.

Q. Fair enough. And if it's more Democratic, it's less favorable to a Republican candidate, is that right?

A. I mean, it depends on how much territory he maintained. I mean, there are plenty of Republicans in—around the country that represent Democratic districts.

Q. Sure. Understood. But it would become less favorable to him if you brought in more Democratic territory?

A. Andy Harris probably wouldn't—would probably prefer that that not happen.

Q. Right.

A. But it depends, again, if he held a lot of his same territory.

Q. Right. Okay. And in the 6th District, the 6th Congressional District in western Maryland held by Roscoe Bartlett, one of the options to create the 7-1

map was to change the boundaries of [47] the 6th Congressional District in such a way that it was more favorable to a Democratic candidate winning that 6th Congressional seat?

A. It would become more Democratic.

Q. Right. And you would do that by changing the boundaries of the district, is that right?

A. It would become more Democratic over time anyway, because Frederick was growing so much, but yes, you would change the boundaries.

Q. And one of the ways you could change the boundaries is to extend the boundaries of the 6th Congressional District into Montgomery County, is that right? And that would improve the Democratic performance of the district?

A. Depending on what else—yes, I mean, Montgomery County is a very Democratic county.

Q. Right. At some point, did you understand one of the goals of your consulting arrangement with the U.S.—the Democratic members of Maryland's U.S. House delegation to be—to make the 6th Congressional District more favorable for a Democratic candidate? [48]

MS. RICE: Objection, speculation.

THE WITNESS: Again, the goal was incumbent protection. And if the state was so Democratic that there was another Democratic district someplace. So I mean, yes. I mean, I guess. I don't know if it was ever stated in that way, but—

BY MR. MEDLOCK:

Q. You understood that to be one of the goals?

A. That was one of the things we looked at.

Q. Okay. Was it not only one of the things you looked at, but one of the goals, as you understood them, of this consulting arrangement?

MS. RICE: Objection. Objection.

BY MR. MEDLOCK:

Q. That's all right.

A. Okay. Again, we were looking—one of the goals was, because the state was so Democratic, to see if there was a possibility for another Democratic district.

Q. So a seventh seat, regardless of where it [49] was, just to create a 7-1 split?

A. Yes.

Q. Sorry. You made me go way through my outline much faster.

A. Oh, no.

Q. So this is fine. When you were involved in this consulting arrangement with the Democratic members of Maryland's U.S. House delegation, did you hold any meetings with those Democratic members?

A. Yes.

Q. How many?

A. I don't know exactly.

Q. More than five?

A. Possibly.

Q. Where did those meetings occur? Were they in person or were they on the phone?

A. Are you talking—can you ask the question again?

Q. Sure.

A. Okay.

Q. Sure. Did you have meetings, any type of meetings on the phone or in person with members of [50] Maryland's U.S. House delegation during the 2011 redistricting cycle?

A. Yes.

Q. How many of those meetings were in-person meetings?

A. As a group or individually? That's what I'm—

Q. I see. How many meetings were there with the entire U.S.—Maryland Democratic U.S. House delegation?

A. I don't remember exactly.

Q. Are we talking more than one?

A. Yes.

Q. More than five?

A. I don't know if it was more than five.

Q. Okay. Somewhere between one and five, then?

A. Right.

Q. Okay. How about one-on-one meetings? Did you have any one-on-one meetings with members -- Democratic members of Maryland's U.S. House delegation? [51]

A. Yes.

Q. Can you name the Democratic members of Maryland's U.S. House delegation that you had one-on-one meetings with?

A. Yes. Congressman Sarbanes, Congressman Hoyer. Congressman Van Hollen. Maybe Congresswoman Edwards. I don't remember.

Q. How about Congressman Elijah Cummings. Did you have one-on-one meetings with him?

A. I don't remember having a one-on-one meeting with Congressman Cummings.

Q. Okay.

A. I mean, not to say that I didn't. I just don't remember.

Q. You just don't remember.

A. Right.

Q. Okay. Did you have any—when you had these one-on-one meetings, where did those meetings occur?

A. At the members' office or at our office or—yeah.

Q. What was the breakdown? Did it happen [52] more often at NCEC's offices, or did it happen more often at the members' offices?

A. I don't know.

Q. Okay. And the group meetings. Where did those meetings occur?

A. Those meetings took place at the Capitol.

Q. Whose offices?

A. In a meeting room at the Capitol.

Q. Okay. When you met with the full Democratic U.S. House delegation from Maryland, who from NCEC Services was present at those meetings?

A. I was there, and Mark Gersh was there.

Q. What's Mark Gersh's role at NCEC Services?

A. Mark is currently—we're so informal.

Q. That's fair.

A. I'm sorry. But we are. It's hard for me to—

Q. Do your best to describe it.

A. I mean, I would call him a consultant now.

Q. Okay. [53]

A. But that doesn't even seem right. It's just we're really informal there.

Q. Okay. Fair enough. And are you, in your find, distinguishing between consultant and analyst?

A. Well, he's an analyst as well.

Q. Oh, okay.

A. He just doesn't spend as much time in the office, that's all.

Q. Okay. We can seal certain parts of this of this transcript if you want.

A. No, he wouldn't mind that. I just—I don't—we are very informal.

Q. Fair enough.

A. Okay.

Q. Okay. When you had these meetings with the full Democratic U.S. House delegation from Maryland in the meeting rooms at the Capitol, were any congressional staffers present for those meetings?

A. I don't think so.

Q. To your knowledge, were congressional staffers barred from attending the meetings? [54]

A. I don't know.

Q. Were any individuals, other than the Democratic members of Maryland's U.S. House delegation, and employees of NCEC Services, invited to the meetings?

A. I'm sorry. Can you ask that again?

Q. Sure. Was anyone invited to these meetings with the full Maryland Democratic U.S. House delegation at NCEC Services that occurred at the Capitol besides NCEC Services and the members themselves?

A. I don't know if anybody else was. I don't remember anybody else being there.

Q. Were any attorneys there?

A. I don't remember, but I would say no.

Q. Did anyone take notes during the meeting?

A. No, I don't think so.

Q. Was an agenda—I'm sorry, go ahead. I didn't mean to step on your answer.

A. I don't think so, no.

Q. Was an agenda ever circulated at any of these meetings? [55]

A. No.

Q. Were any minutes ever circulated after the meetings?

A. No.

Q. Was there ever any sort of informal emails sent after the meetings summarizing what was discussed at the meetings?

A. I don't remember that. I don't remember there ever being one, but I don't remember.

Q. Did—were any sort of papers circulated during these meetings with the full Democratic U.S. House delegation from Maryland?

A. I don't remember.

Q. Did you bring any briefing books to the meetings?

A. No, not a briefing—no.

Q. Did you bring any sort of written materials to the meetings?

A. I don't remember.

Q. Okay. Did you bring your computer to the meetings?

A. Yes. [56]

Q. Did you run Maptitude during the meetings?

A. Yes.

Q. Did you actually manipulate the boundaries of congressional districts during—on Maptitude during these meetings?

A. Rarely, I'd say.

Q. Okay. Why do you say rarely?

A. It was more just to show plans—plan options.

Q. I see. So you're sort of presenting the different plan options?

A. Right. Right.

Q. And how many plan options would you present during these meetings?

A. I don't know.

Q. Are we talking dozens or less than 10?

A. Oh, no. Less than 10. Less than five—I don't know. Not many.

* * *

Q. All right, sir. I've put in front of you what we've marked as Exhibit 56 to your deposition. It's a one-page document bearing the Bates label HOY000123. And it's more of a map than it really is a document, but when you're done reviewing it, please tell me audibly on the record that you're done. [91]

A. I'm done, yes.

Q. Okay. All right. So this is a document that has the NCEC Services logo at the bottom left corner, if you're looking at it sort of portrait view?

A. Right.

Q. And it's titled Maryland Democratic performance—sorry. Go ahead.

A. Landscape view?

Q. Oh, landscape, yes. Thank you.

A. Sorry. I mean, it doesn't matter, but we know what we are talking about.

Q. Yes. That's fine.

A. Right.

Q. At the top of the document, it's titled Maryland Democratic performance by County, State Dem Performance Equals 58.2 Percent. Do you see that?

A. Yes.

Q. When you said earlier that Maryland is such a Democratic state, were you referring to the statewide Democratic performance number that's shown in this document? [92]

A. No, not—actually, no. I mean, that represents it as well. I mean, I just know that—

Q. Just generally?

A. Yes. From individual race results, yeah.

Q. All right. So there is some—there is red and there is varying levels of red and blue on this map, correct?

A. Yes.

Q. And that corresponds to better Republican performance and better Democratic performance, correct?

A. That's correct.

Q. So the deeper blue it is, the better the Democratic performance, right?

A. Yes.

Q. And the deeper red it is, the better the Republican performance, correct?

A. Yes.

Q. All right. So it's a little hard to read, but in the far left corner of the panhandle, do you see Garrett

County, which is next to Allegheny. Should be the very far-most left? [93]

A. Yeah, I know where Garrett is, but that's hard for me to see.

Q. Okay. So safe to say that the entire panhandle of Maryland is red, right?

A. Varying shades of red. Yes.

Q. And then Frederick County is also red?

A. The county itself is red.

Q. And as is Carroll, to the right of Frederick?

A. Yes. Yes.

Q. So it's red. Okay. And if you look at Montgomery County, which is the blue county beneath Frederick, that is a deep blue, correct?

A. Yes.

Q. Okay. All right. So there is a box to the left of the state that's titled Democratic district performance. Do you see that?

A. Yes.

Q. All right. And there is sort of a table, and on the left side, there is numbers ranging from MD01 to MD08. Do you see that?

A. Yes. [94]

Q. And then there is various percentages to the right of that, correct?

A. Yes.

Q. Do you see a row that begins with MD06?

A. Yes.

Q. Does that refer to Maryland's 6th Congressional District?

A. Yes.

Q. All right. And the Democratic performance for the 6th Congressional District is 37.6 percent, correct?

A. That's correct.

Q. Just based on the numbers that you're seeing here for Democratic performance, is it your understanding that this is a representation of Democratic performance in Maryland's eight congressional districts prior to the 2011 redistricting process?

A. Do you mind if I look at this?

Q. Sure. You can refer to Exhibit 55, if you like. I'll tell you that the numbers don't quite add up. [95]

A. Yeah, that's—so can you ask the question again? I'm sorry.

Q. Sure. My question was, just based on the numbers you're seeing in this table, the Democratic district performance table, does that indicate to you that this—that this map shows the Democratic performance of Maryland's eight congressional districts prior to the 2011 redistricting process?

MS. FROST: Objection.

THE WITNESS: Well, it shows the state, it shows the—it appears so, yes. I think so, yes.

BY MR. MEDLOCK:

Q. Okay. All right. Put 56 aside. We'll mark Exhibit 57 to your deposition.

(Hawkins Exhibit No. 57 was marked for identification.)

BY MR. MEDLOCK:

Q. All right, sir. Exhibit 57 is a series of tables bearing the Bates numbers HOY000001 through HOY000018. Take a second to review it, there is a lot of information here. I'll direct you [96] to particular pages when I'm questioning you, but when

you're done looking at it, just let me know audibly that you've reviewed it.

A. That's a lot.

Q. I know it is. So—but let me start with the first page, which is HOY001. Have you seen documents in this format before, in your work at NCEC Services?

A. This is not familiar to me, the way this is laid out. And some of the column headings, I don't even understand. I see our data on here, but I didn't—I don't think I put this together.

Q. I see. When you say, I see our data on here, what are you referring to?

A. Well, federal DEM performance and state DEM performance.

Q. Okay. Do you know who created this document? Was it anyone at NCEC Services?

MS. RICE: Objection, form of the question.

THE WITNESS: It does not look like something that we would do. It's not laid out [97] like—so I would say, I don't know, but I don't think we did it there.

BY MR. MEDLOCK:

Q. Okay. And let me flip in to page 3, which is HOY003. The title of this page, this page of the spreadsheet is, drawn during delegation meeting. Do you see that?

A. Yes.

Q. Do you—and you recall drawing maps in Maptitude during meetings with Maryland's U.S. House, the Democratic members of Maryland's U.S. House delegation, correct?

A. On occasion, yeah.

Q. Okay. And if you look at the fed Democratic performance column here, FEDDPFM. Do you see that?

A. Yes.

Q. And if you look at the 6th Congressional District, FED Democratic performance, it's 51 percent, correct?

A. Yes.

Q. And the state Democratic performance for [98] the 6th Congressional District is 47.8 percent, correct?

A. Yes.

Q. Okay. So if you compare that to the Democratic performance listed on Exhibit 56, the Democratic performance listed on Exhibit 56, for the 6th Congressional District, was 37.6 percent, correct?

A. That's what is listed on this map. Here is the thing. I don't know what moment in time this came from, and the formulas change, so—

Q. Oh, you mean the formula that underlies federal Democratic performance?

A. Right, yes.

Q. Okay. But nevertheless, in one document, it's 37.6 percent in Exhibit 56?

A. Right.

Q. And in the next document, Exhibit 57, it's listed as 51 percent, correct?

A. Right. The other thing I would say, and I don't know what that Democratic performance is an average performance or a federal performance on this [99] one, because this one is a federal one, but it's higher, yes.

Q. Okay. Well, let's compare it from 55. Do you have 55 in front of you?

A. Yes.

Q. All right. In Exhibit 55, second page, the six districts total federal Democratic performance is listed as 37.4 percent, correct?

A. Yes.

Q. And that's on a document that NCEC Services created?

A. Yes.

Q. Okay. And if you look at HOY0003 on Exhibit 57, the federal Democratic performance for the 6th Congressional District is listed as 51 percent, correct?

A. Correct.

Q. Okay. So it increased from 37.4 percent to 51.0 percent, correct?

A. Between these two documents, yes. And I'm not trying to be difficult.

Q. No, I understand. [100]

A. I don't know—okay, what—this does have a date on it. Okay. So that was probably the same formula. I don't know where this data came from. It looks—I don't know who put this together. I'm not trying to be—

Q. No, I understand.

A. I'm sorry, I'm trying to be precise.

Q. That's fine.

A. And those two numbers are—yes. Are different. I mean, yes. All right? And I'm not trying to be—

Q. No, that's fine, I understand. Could a formula change have caused a 14 percent, or thereabouts, change in federal Democratic performance?

A. No, no, no.

Q. Okay. So it had to be some sort of boundary change that would have created the change from 37.4 percent to 51 percent, correct?

A. Yes.

Q. And I mean, that's not a mistake, those lines were drawn intentionally to increase the [101] Democratic performance, correct?

MS. FROST: Objection.

MS. RICE: Objection.

BY MR. MEDLOCK:

Q. Let me back up. You were the person—you said you did most of the work on this?

A. Right.

Q. All right. And you were the one who, during these meetings with the Democratic delegation to the U.S. House of Representatives, had Maptitude running on your computer, correct?

A. Yes.

Q. And you would occasionally manipulate the boundaries of the congressional districts during those meetings, correct?

A. On rare occasions.

Q. On some occasions, you would?

A. Yes.

Q. And when you did that, it would change the Democratic performance of the districts, correct?

A. Well, any boundary change is going to [102] change the numbers.

Q. Right. So when you changed the boundaries during these meetings, the numbers would change, correct?

A. Yes.

Q. And one of the reasons that the boundaries were changed in the draft maps that were created during these meetings was to increase Democratic performance in the 6th Congressional District?

MS. RICE: Objection.

THE WITNESS: Well, one of the goals, yeah—or one of the—I mean, because there were—that Maryland is so Democratic, we were trying to figure out another way to see if there was another Democratic district possible, because it was so Democratic.

BY MR. MEDLOCK:

Q. So one of the goals when manipulating the boundaries of the 6th Congressional District was to increase the Democratic performance of that district? [103]

A. Well, we would have looked at that, and we would have—yeah. I mean, because that was -first and foremost, again, it was the incumbent protection. And the members were most concerned about that, as you can imagine. And then secondarily, we were just looking to see if it was possible to do something else.

Q. When you say do something else—

A. Well, find another—because, again, state is so Democratic, and that—that number actually is—I mean, the state's Democratic, so we were looking to see if there was a way to create another Democratic district to reflect the Democratic voting behavior in the state.

Q. Did you do any analysis of voting behavior in the 6th Congressional District itself?

A. I don't remember doing that.

Q. Did you do any analysis to determine whether the 6th Congressional District has voted for Democrats or Republicans?

A. Well, not specifically.

Q. Okay. Do you do that generally? [104]

A. Well, the Democratic performance in this document right here would indicate that it—that—I mean, when you say an analysis, I don't -that's not a thorough analysis.

Q. Okay. When you say this document right here, you're pointing at Exhibit 55, right?

A. Right.

Q. Okay. And in that document, that's the one with the 37.4 percent—

A. Right. I wouldn't—

Q. —performance.

A. I wouldn't classify that as a thorough analysis.

Q. Okay. But it would be some analysis?

A. Well, it demonstrates the voting behavior in these congressional districts.

Q. Okay. And one of the goals was to change the voting behavior in the 6th Congressional District?

MS. FROST: Objection.

MS. RICE: Objection.

THE WITNESS: Well, the goal was to match [105] up the districts in the state with the actual voting behavior statewide, and reflect how Democratic the state is.

BY MR. MEDLOCK:

Q. So you wanted to match the voting behavior in the 6th Congressional District with the overall Democratic voting behavior in the state, is that right?

MS. RICE: Objection.

THE WITNESS: Well, we wanted to reflect in a map how Democratic the state was. And to accurately—through the districts, to accurately represent how Democratic the state is as a whole.

BY MR. MEDLOCK:

Q. Okay. And to do that, you were—one of the things you were attempting to do was to increase the Democratic performance in the 6th Congressional District?

A. Well, we would increase—yeah, in one of the—somewhere. I mean, to represent how Democratic the district is—or state is, pardon me. [106]

Q. Fair enough.

A. Yes.

Q. And to do that, you'd either have to increase Democratic performance in the 1st Congressional District, Andy Harris's district, or the 6th Congressional District, Roscoe Bartlett's district?

A. Those are the only two Republican districts.

Q. Okay. And in this map, if you look at it—or, sorry, this table on HOY0003, Exhibit 57, the 1st Congressional District has 37 percent Democratic performance, correct?

A. The—yes.

Q. And federal—

A. Thank you. I appreciate that.

Q. It helped me, too, to be honest. And that would imply that there is 63 percent Republican performance in that 1st Congressional District in this—

A. Federal performance.

Q. Federal performance, yes. [107]

A. Yes.

Q. And the federal Democratic performance in the 2nd Congressional District is 58.7 percent?

A. Yes.

Q. The federal Democratic performance in the 3rd District is 58.8 percent correct?

A. Yes.

Q. And in the 4th District, the federal Democratic performance is 75.7 percent?

A. Yes.

Q. In the 5th Congressional District, the federal Democratic performance is 60 percent correct?

A. Yes.

Q. And we already talked about the 6th, that's 51 percent federal Democratic performance?

A. That's correct.

Q. In the 7th, it's 73.7 percent Democratic—federal Democratic performance, correct?

A. Yes.

Q. And finally, in the 8th, it's 62.5 [108] percent federal Democratic performance, correct?

A. Yes.

Q. All right. So seven of those eight congressional districts had 51 percent or more federal Democratic performance, correct?

A. That's correct.

Q. And it's only the 1st Congressional District, Andy Harris's district, that has lower than 50 percent federal Democratic performance, right?

A. Yes.

Q. So in this map, the way that you were -in this table, the way that the—you were getting the seventh Democratic congressional seat was changing

the Democratic performance in the 6th Congressional District?

MS. FROST: Objection.

THE WITNESS: Well, I mean, the Democratic performance goes up in the 6th Congressional District under whatever map this is, yes.

BY MR. MEDLOCK: [109]

Q. Okay. And that's how the seventh seat would have been created to reflect Maryland's Democratic—overall Democratic nature?

MS. FROST: Objection.

THE WITNESS: Well, that's where the—I mean, there is seven seats over 51 percent, so you know, that's—that's a 50/50 district any way, so—

BY MR. MEDLOCK:

Q. But 51 is not 50, right?

A. Well, not exactly, but—

Q. Right.

A. It's not—not super strong either.

Q. Certainly different than 37.4, though?

A. Yes, it is. Yeah, it is.

Q. Okay. All right. Let's turn to the next page, HOY0004. Oh, actually, let's turn forward, I should say. HOY0002.

A. Okay.

Q. This is a map—or this isn't a map. This is a table entitled post meeting delegation option. Do you see that? [110]

A. Yes.

Q. Do you know what post meeting delegation option means?

A. I don't know what that means. I don't -again, this is not something I put together.

Q. Okay. I understand. But the data for FED Democratic performance and state Democratic performance would have come from NCEC Services, correct?

A. That's what we call it. I mean, I don't know where else they would have gotten it.

Q. Right. And that's sort of a proprietary performance metric that you have?

A. Right, yes.

Q. So it couldn't have come from anywhere else than NCEC Services?

A. I—

MS. RICE: Objection, speculation.

THE WITNESS: I don't know for sure. I wouldn't think so. Okay.

BY MR. MEDLOCK:

Q. So you would doubt that this was coming [111] from a third party, not NCEC Services?

A. Right, right.

MS. FROST: Objection, "this," to your use of "this." It's not clear.

BY MR. MEDLOCK:

Q. Okay. I'll back up. The columns, federal Democratic performance and state Democratic performance, you would doubt that the information displayed in those columns came from any third party source other than NCEC Services, correct?

A. Correct.

Q. Okay. All right. The—if you look at the federal Democratic performance column, I'm not going to read through them again with you again, but there

are seven congressional districts that have 51 percent or more federal Democratic performance, correct?

A. That's correct.

Q. And the only congressional district that has below 51 percent federal Democratic performance is the 1st Congressional District, Andy Harris's district, correct? [112]

A. That's correct.

Q. And if you look at the 6th Congressional District, it has 51 percent federal Democratic performance, correct?

A. That's correct.

Q. And 47.7 percent federal Democratic performance?

MS. FROST: Objection.

THE WITNESS: State.

BY MR. MEDLOCK:

Q. State. Sorry.

A. That's okay. Don't—

Q. But 47.7 percent state Democratic performance is listed for the 6th Congressional District in this chart, correct?

A. That's correct.

Q. Okay. Would the difference between 51 percent federal Democratic performance and 47.7 percent state Democratic performance imply to you that there could be situations in which a Democrat carried the 6th Congressional District in a federal election, but a gubernatorial candidate would have [113] carried the 6th Congressional District in a statewide election?

A. Not exactly.

Q. Why not exactly?

A. Well, it depends on what kind of election year it was. If it was a presidential or a midterm. So it depends on what the turnout is. I mean, this goes—just—it's what we would call—I mean, can you ask the question again? Just so that I'm clear on it.

Q. Oh, sure.

A. I—

Q. So you have 47.7 percent state Democratic performance and 51 percent federal Democratic performance in the 6th District?

A. Right.

Q. Under this particular table. Would that imply that there could be a situation in which a -a U.S. House candidate wins—a Democratic U.S. House candidate wins the 6th Congressional District but a Republican gubernatorial candidate would carry the 6th Congressional District? [114]

A. I don't think it exclusively implies that.

Q. Sure.

A. I mean, you can look across—you know, Democratic performance wasn't the only—

Q. Sure. Absolutely.

A. —factor that we used. And then, I mean, you look at the 2004 presidential, and that's 47.4. So that's another federal race. So it doesn't necessarily imply specifically what you're saying.

Q. I see. I see. So if you look at the Governor '06 D percentage column?

A. Right.

Q. That's—for the 6th Congressional District, that's 47.1 percent, correct?

A. Right.

Q. And the Governor '10 D percentage column, that's 48 percent, correct?

A. That's correct.

Q. And you already mentioned the presidential '04 Democratic percentage. The [115] presidential '08 Democratic percentage is 54.5 percent, correct?

A. I'm sorry. Say that last one?

Q. The PRS08D percentage column. Do you see that?

A. Right.

Q. For the 6th Congressional District, that's listed as 54.5 percent, correct?

A. That's correct.

Q. So in this congressional district, in 2008, President Obama got 54.5 percent of the vote, correct?

A. That's correct.

Q. But in 2010, the gubernatorial candidate, I think that would have been Martin O'Malley only got 48 percent of the vote, correct?

A. That's correct.

Q. Okay. So there is—there could be a situation, like in 2010 and 2008, where a nationwide Democratic candidate could carry the 6th District, but two years later, a Republican gubernatorial candidate could win it. [116]

A. Yes. But I'd also point you to the second to the furthest right-hand column, the second to the furthest right-hand, the House '08 percentage.

Q. Yes.

A. So that's 48.4 percent. So this is why I'm having—

Q. I see.

A. I'm being—I'm not trying to be difficult, it's just—I've worked with these numbers all the time. And to me, that says that a House candidate, a Repub-

lican House candidate can still win that district, and would have under -using the 2008 House result.

Q. By using the 2010 House result?

A. Exactly. See, it depends on the year.

Q. I see.

A. This is the kind of—yeah. The district—

Q. I see. So 51 percent doesn't really indicate much to you?

A. No, the district is—it's—it [117] improved, but it's a marginal district. It's like it could go either way.

Q. Okay. Let's move to HOY0004. This is -this is a table entitled, delegation proposal, correct?

A. Yes.

Q. Okay. And do you understand that at some point, the Maryland U.S. House—Democrats in the Maryland U.S. House delegation actually made a proposal to the redistricting commission regarding the boundaries it should draw?

MS. RICE: Objection, misstates—

THE WITNESS: I don't know that for sure.

BY MR. MEDLOCK:

Q. You say you don't know it for sure. Do you have any evidence that that occurred?

A. I don't know how the process was done.

Q. Okay. Did anyone indicate to you that that happened?

A. I don't—

MS. RICE: Objection.

THE WITNESS: I don't remember exactly. [118] I just don't remember.

BY MR. MEDLOCK:

Q. Okay. All right. And in this delegation proposal table, the federal Democratic performance is 51 percent again for the 6th Congressional District, right?

A. Right.

Q. Okay. And then the next page, HOY0005, do you see that?

A. Yes.

Q. That is titled, Van Hollen proposal?

A. Right.

Q. Do you see that?

A. Yes.

Q. Do you know what that means?

A. Well, again, this isn't my—

Q. Uh-huh.

A. Whoever put this together, there is—my understanding, from reading the title, is it would be something that Congressman Van Hollen proposed, but I don't know to whom.

Q. To whom? [119]

A. Yes.

Q. All right. And in that Van Hollen proposal table, if you look at the federal Democratic performance for the 6th Congressional District, it's 51.3 percent, correct?

A. Right.

Q. So we've added three-tenths of a point to the Democratic performance in this proposal?

A. The federal performance, yes.

Q. Okay. Let's move to the next page, HOY0006. That's titled, Edwards proposal. Do you see that?

A. Yes.

Q. And again, you don't know—it's a proposal from Donna Edwards to whom?

A. I mean, it doesn't say Donna Edwards. You have to presume that it's Donna Edwards. And I don't know to whom.

Q. Okay. All right. Flip in to page HOY0009.

A. All right.

Q. This is a table entitled 6-2. Do you see [120] that? The top left corner.

A. Yes.

Q. Do you know what 6-2 refers to?

MS. FROST: Objection.

THE WITNESS: I mean, again, I didn't do this.

BY MR. MEDLOCK:

Q. Right. I understand.

A. I didn't do this. I—I mean, I have difficulty, because I didn't do it, but it's -there are eight congressional districts.

Q. Right.

A. Six of them, it appears to be Democratic on here, or lean Democrat. I don't know, you know—

Q. Okay.

A. —okay?

Q. So in this column, in this table, I should say, federal Democratic performance for the 6th Congressional District is 34.5 percent, correct?

A. Right.

Q. And for the 1st Congressional District, [121] the federal Democratic performance is 39.4 percent, correct?

A. Right, so there is—

Q. Those could be the two, and then it could be the six that are Democratic leaning?

A. Right. But again, this is not my document.

Q. Okay. I just want to get your understanding from looking at it.

A. No, and I appreciate that.

Q. Okay. So the next pages from HOY00010 through HOY00015, they are titled MDLEG_Plan A through MDLEG_Plan F. Do you see that?

A. Yes.

Q. Okay. Do you have any understanding as to what MDLEG_Plan A through MDLEG_Plan F means? MS. RICE: Objection.

THE WITNESS: I don't know what A, B, C, D, E, F refers to.

BY MR. MEDLOCK:

Q. Okay. What about the rest of it?

A. Well, again, not being—my document, MD [122] clearly is the abbreviation for Maryland. And I -- you know, I would presume it's something from the legislature, but I don't know.

Q. Okay. So if you look at the—I'm on MDLEG_Plan A, which is HOY00010. Looking at the federal Democratic performance column?

A. Right.

Q. It's the 6th District, federal Democratic performance is 53.1 percent, correct?

A. That's correct.

Q. Okay. So that's up 3 percent from the -or up 2.1 percent, I should say, from the 51 percent we saw in earlier versions of this table, correct?

A. Up—yes.

Q. Okay. All right. MDLEG_Plan B, the next page, HOY00011. Federal Democratic performance for the 6th Congressional District is 52.1 percent on this table, correct?

A. That's correct.

Q. Okay. And if you flip through to Plan C, the federal Democratic performance for the 6th Congressional District is 53.1 percent again? [123]

A. Yes.

Q. Plan D, the federal Democratic performance for the 6th Congressional District is 52.1 percent?

A. Yes.

Q. Plan E, the federal Democratic performance for the 6th Congressional District is 53.1 percent, right?

A. Right.

Q. And then Plan F, the federal Democratic performance for the 6th Congressional District is 53.1 percent, correct?

A. Yes.

Q. Okay. Do you see a column in Plan F titled, current?

A. Yes.

Q. Do you know what—do you have an understanding as to what that means?

A. That's probably the amount of the current district that's retained.

Q. Okay. And for Plan F, for the 6th Congressional District, the amount of the current [124] district that's retained is 50.6 percent correct?

MS. FROST: Objection.

THE WITNESS: Can you restate that?

BY MR. MEDLOCK:

Q. Sure. Sure. So if you look at the current column for the 6th Congressional District, it lists 50.6, right?

A. Right.

MR. MEDLOCK: Okay. All right. I think we're almost out of tape, so why don't we stop here.

* * *

BY MR. MEDLOCK:

Q. Welcome back from lunch, sir.

A. Thank you.

Q. Do you understand what the term compactness means in the redistricting process?

A. Yes.

Q. What does it mean to you?

A. Well, there are different ways to measure how compact a district is, and whether or not it's—I mean, that means a condensed shape or—I mean, well, not necessarily that either. It [126] depends. There are different measurements.

Q. Does NCEC Services use a particular measure of compactness?

A. Maptitude includes like five different, six different—maybe even eight different measurements. But I don't—we don't have it settled on one, I don't think. We usually look at all of them.

Q. When you were involved in your consulting engagement with the Democratic members of Maryland's U.S. House delegation, and looking at different versions of congressional maps, did you consider any measure of compactness when analyzing those maps?

A. I don't believe that we did in Maryland. I don't remember.

Q. Okay. Did you consider—let me back up. When analyzing the potential maps that were drawn for the 2011 redistricting process in Maryland, did you consider whether those maps would protect all incumbents, not just Democratic incumbents?

MS. RICE: Objection, asked and answered. [127]

THE WITNESS: Well, yeah, I mean, we were certainly looking at—we were working for the Democratic House delegation. We were looking at that. But I—you know, certainly when you look at—when you look at a map, you can determine that as well. So I would say that we were mainly focused on the Democratic House members.

BY MR. MEDLOCK:

Q. Do you have an understanding of what the term, communities of interest means as it relates to redistricting?

A. Yes.

Q. What does it mean to you?

A. Well, generally, when we're looking at communities of interest, we're looking at it in terms of majority-minority districts.

Q. When you were analyzing potential congressional maps for the State of Maryland in the 2011 redistricting process, did you consider communities of interest?

A. We considered—I wouldn't say specifically communities of interest. We considered [128] whether or not a minority population could elect the candidate of their choice.

Q. Beyond whether a minority population could elect a candidate of their choice, did you make any other inquiry into communities of interest as it related to the 2011 Maryland redistricting process?

A. I don't remember doing so. I don't remember that.

Q. Did you ever—do you know where Interstate 270 is?

A. Yes.

Q. And where is it?

A. It runs from Montgomery County into Frederick, I believe.

Q. Okay. And that's in Maryland?

A. Yes.

Q. Counties in Maryland? Did you at all consider whether the—there was a community of interest related to the I-270 corridor when analyzing potential maps in the 2011 Maryland congressional redistricting process? [129]

A. No, I don't remember doing so.

Q. Okay. Did you analyze any data related to commuting patterns on Interstate 270 when you were looking at potential congressional maps for the 2011 Maryland congressional redistricting process?

A. No, I didn't.

Q. Do you know if anybody at NCEC Services did?

A. No, I don't—I don't recall anybody doing that.

* * *

Q. I see. How long have you been using Maptitude?

A. I think we started using it—it may have been in the—after the 2000 cycle. The 2000—I don't remember specifically. And I know we used a different software product at one time, certainly in the '90s. I don't remember if we were [148] using that again in 2000, in which case we would have moved to Maptitude. But I'm sorry, I don't remember specifically when we did.

Q. In your experience as a Maptitude user, has the product changed over time?

A. Yes, I mean, it's gotten a little faster and yes, it's changed.

Q. Has it improved, in your mind?

A. Well, sure. I mean, like any software product, yeah, it's improved.

Q. Can you give me examples of how Maptitude has improved over—since you started using it?

A. I think the reporting functions have improved.

Q. What do you mean by the reporting functions?

A. Well, you can generate reports on any number of things, but you know, how—where the donor district is coming from. All sorts of things.

Q. Since you started using Maptitude as the product actually—the software, does it actually move faster than it used to when you first started [149] using it?

A. I think it moves faster. I mean, I can't quantify that. But I—it feels like it moves faster. Maybe I've just gotten better.

Q. One or the another, right?

A. Yeah. I'm sure it's the software, not me.

Q. Is Maptitude able to handle more data now than it used to, when you first started using it?

A. I don't know. I don't know if it has or not. I don't remember.

Q. Okay. Let's mark the next exhibit.

(Hawkins Exhibit No. 61 was marked for identification.)

* * *

Q. Gmail emails are not the easiest for depositions, I'll tell you that. Okay. The text of that—of the

body of that email reads, the 2nd is helping in a small way by taking some bad Harford from the 1st, so it can grow further into Carroll, thus improving the 6th. Did I read that correctly?

A. Yes.

Q. What do you mean by "improving the 6th" in this email?

A. Well, I mean, Carroll County is very Republican, so it probably means that the 6th becomes a little bit more Democratic by moving out of Carroll County.

Q. Okay. All right. You can put 63 aside.

(Hawkins Exhibit No. 64 was marked for identification.)

BY MR. MEDLOCK:

Q. All right, sir. Showing you Exhibit 64, which is a one-page email exchange bearing the Bates number HOY000347. Please take a moment to review [163] it. And when you're done reviewing it, please let me know.

A. Okay.

Q. Okay. This is an email exchange between Brian Romick and Mark Gersh, correct?

A. Yes.

Q. And it's—it all occurs on September 1st, 2011, is that right?

A. That's correct.

Q. All right. I'm looking at the September 1st, 2011 email sent at 2:31 p.m., by Mark Gersh. Are you there with me?

A. At 2:31, yes.

Q. Yes. And he writes, okay, have to come back to NCEC after meeting with the Governor. Do you see that?

A. Yes.

Q. Do you recall ever going to a meeting with Mr. Gersh and Governor O'Malley?

A. I never went to a meeting with the Governor.

Q. Do you recall Mr. Gersh ever going to a [164] meeting with the Governor?

A. I don't recall, but I mean, it's written here.

Q. Do you—do you have any reason to doubt that Mr. Gersh met with the Governor as stated in the email?

A. No, I just don't remember that happening. But I'm not saying it didn't. It just—it says it did here.

Q. Okay. If you move up in the email, there is an email sent on September 1st, at 2:43 p.m., by Brian Romick. Do you see that?

A. Yes.

Q. Okay. And in the second sentence of that email, he writes, "we need to do three meetings if Miller and Busch are in Annapolis." Did I read that correctly?

A. Yes.

Q. What is your understanding of what—who Miller refers to?

MS. RICE: Objection.

THE WITNESS: Was he the—I don't—[165] he's either the leader of the Senate or the House of Delegates.

BY MR. MEDLOCK:

Q. Does it refer to Senate President Thomas V. "Mike" Miller?

A. Yes.

Q. And Busch, does that refer to House of Delegates Speaker Michael E. Busch?

MS. RICE: Objection.

THE WITNESS: I—if you say so, yes. I'm sorry, I just didn't work with the legislature at all, and I can't remember the names and who was—who were the people there.

Q. Fair enough. Do you recall whether Mr. Gersh met with Senate President Miller, as stated in the email?

MS. RICE: Objection.

THE WITNESS: I don't recall that. It's stated here, so I assume that happened.

BY MR. MEDLOCK:

Q. Do you recall whether Mr. Gersh met with House of Delegates Speaker Michael Busch, as stated [166] in the email?

MS. RICE: Objection.

THE WITNESS: I don't recall that. Again, it's in the email, so—

BY MR. MEDLOCK:

Q. Do you have any reason to doubt that Mr. Gersh met with either of those individuals?

MS. RICE: Objection.

THE WITNESS: I have no reason to doubt it. I have no independent knowledge of it.

BY MR. MEDLOCK:

Q. Understood. Did Mr. Gersh ever discuss meeting with Governor O'Malley, Senate President Miller, or Speaker Busch with you?

A. I don't remember him doing so.

Q. So you can't tell me one way or the other if he ever discussed it with you?

A. No. I mean, no, I wasn't in D.C. this entire time, so I don't know. I mean, I spent most of my time in the frozen north.

Q. When you say frozen north, you mean Maine, right? [167]

A. Yes.

Q. That's America's vacation land?

A. Right. True.

Q. It's not the frozen north?

A. It is a little bit now, but okay. You don't—

Q. Yes. Okay. You can put 64 aside.

(Hawkins Exhibit No. 65 was marked for identification.)

BY MR. MEDLOCK:

Q. All right, sir. I'm showing you Exhibit 65, which is a one-page email exchange, bearing the Bates number HOY000334. Please read through it, and once you're done, let me know you have.

A. Okay.

Q. All right. So this is an email exchange between Mark Gersh and Brian Romick, correct?

A. That's correct.

Q. And if you look at the dates on the emails, the first one was sent on September 8th, 2011, but the remainder of them are on September 12th, 2011, is that right? [168]

A. That's right.

Q. Okay. I want to focus on the top email, September 12th, 2011, 8:41 a.m. email from Brian Romick to Mark Gersh. Do you see that?

A. Yes.

Q. That—the body of that email reads, and there is a couple of redactions in here, but the unredacted body of the email reads, "the only thing I wanted to check with you on was getting the African-American members electronically for current CBC districts and newly drawn ones. The guys in Annapolis are asking about it. Are you coming up for the meeting tomorrow?"

MS. RICE: Objection.

BY MR. MEDLOCK:

Q. Did I read that correctly?

A. Yes.

Q. Okay. Do you have an understanding, beyond what you're reading in this email, of what the phrase "the guys in Annapolis" means?

A. I mean, that's where the state capital is, so I guess it's—I don't know who it refers [169] to, but—I don't know specifically who it refers to, but it's—I mean, it's got to be somebody in the legislature, I guess. I don't know.

Q. Did anyone from the Maryland Legislature ever request any data from you or Mr. Gersh related to the 2011 congressional redistricting in Maryland?

MS. FROST: Objection.

THE WITNESS: I don't remember that specifically happening from them directly. I do not. And I don't know if it came indirectly from them.

BY MR. MEDLOCK:

Q. Okay. Did anyone from the Maryland State Government ever ask you any questions related to the 2011 Maryland redistricting process?

A. Can you ask that again?

Q. Sure. Did anyone from the Maryland State Government ever ask you any questions related to the 2011 Maryland redistricting process?

A. From the state government?

Q. Yes.

A. I don't think any elected officials asked [170] me any questions.

Q. Okay. Let's put elected officials aside. How about unelected officials?

A. Well, I did have—and I don't know if it's this—what this is referring to here, because I don't think it is, but I did have—I did go to Annapolis one time myself, in which I talked to staff.

Q. When did you go to Annapolis to talk to staff?

A. I don't know. It was late—it was -it would have been very late in this process.

Q. Would it have been in September 2011, October 2011? Do you have any recollection of when it was?

A. I don't know.

Q. Was it in the fall of 2011?

A. It must have been in the fall, because that's the end of the process.

Q. Okay. And when you say you went to Annapolis to meet with staff, who was the staff you met with? [171]

A. I don't know. I don't remember.

Q. Do you remember what office they were working with?

A. I don't remember.

Q. Were they in the legislature?

A. I believe so, yes.

Q. Do you remember if they worked for a particular—did they work in the House of Delegates or the Maryland Senate?

A. I don't know.

Q. Do you recall any of their first names?

A. I don't.

Q. How about Yaakov Weissman. Does that sound familiar? He would also go by Jake Weissman?

A. That sounds familiar.

Q. Do you think he is one of the people you met with?

A. I can't be sure.

Q. How about Patrick Murray? Does that name sound familiar?

A. I'm sorry, it doesn't. Yaakov is easier to remember. [172]

Q. That's very fair. How about Alexandra M. Hughes. Does that sound familiar?

A. No.

Q. Do you think she was at the meeting?

A. I don't know.

Q. Do you think that Jason Weintraub was at the meeting?

A. I don't know.

Q. How about Jeremy Baker? Was he at the meeting?

A. There was a—I don't know. There was a Jeremy in another state I worked in. That's why I'm like—

Q. Are you getting your states mixed up?

A. Right.

Q. How about Pamela Johnson. Was she someone you met with?

A. I don't know. I mean, I don't know.

Q. How about Nancy Ernest? Was she someone you met with?

A. I don't remember. I don't know.

Q. How about Carl Aro, last name A-R-O? Did [173] you meet with him?

A. Again, I just don't remember. I don't know who—I don't remember the names.

Q. How about Jean Hitchcock? Did you meet with Ms. Hitchcock?

A. Well, the name is familiar simply because of the Hitchcock, but again, I don't remember.

Q. What about Richard Stewart? Did you meet with Richard Stewart?

A. I'm sorry. I just don't remember.

Q. How about Victoria Gruber, last name G-R-U-B-E-R? Did you meet with her?

A. Again, I don't remember.

Q. And how about Joy Walker? Do you recall meeting with Joy Walker when you went up to Annapolis?

A. I don't remember.

Q. When you went up to Annapolis to this meeting, where did the meeting take place?

A. It was a large meeting room on the first floor of the building up there. I don't know the capital that well at all. [174]

Q. Was it in a state government office building?

A. Again, I don't know the capital, I don't know if that was an official building or not. I don't know.

Q. Was anyone else from NCEC Services at this meeting?

A. That meeting, no.

Q. Did you bring anything with you to that meeting?

A. I would have brought my notebook with me.

Q. And anything else besides your notebook that you brought with you?

A. I don't remember.

Q. Did you take notes during the meeting?

A. I don't remember.

Q. Do you recall anyone else that was at the meeting taking any notes?

A. I don't remember that.

Q. How many people were at the meeting besides you?

A. I don't know exactly. More than half [175] dozen—dozen. I don't know. Not—I have no idea.

Q. So somewhere between 6 and 12 is your best guess?

A. I don't even—12 might be too many. I don't even know.

Q. Well, what did you discuss at the meeting?

A. Pardon me?

Q. What was discussed at this meeting?

A. The congressional map.

Q. Can you be more specific?

A. The reconfigured congressional map. I mean, whatever map was going to take place, and be put in—I don't even—I mean, it was a map of the—I don't know which map it was or what.

Q. When you were discussing this congressional map with the other people at the meeting in Annapolis, were you presenting the map to them, or were they presenting the map to you?

A. I would have been presenting the map to them. [176]

Q. Did they give you any feedback regarding the map?

A. There was feedback, yes.

Q. Can you recall any specific feedback about the map?

A. I can't recall any specific changes.

Q. Were you presenting it to them in Maptitude, or did you have a presentation software besides that, that you were using?

A. No, it was Maptitude.

Q. So did you have your computer with you as well?

A. Yes. That was when I said my notebook, that's what I was referring to.

Q. Oh, that's your—okay, got it.

A. I apologize.

Q. Understood. Understood. And did you have it on a projector, or did you just have it open and showing it to them?

A. No, it was projected.

Q. And were you, during this meeting, actually changing the boundaries of any of the [177] congressional districts, or were you just sort of presenting the map and showing them the data that underlied the map?

A. There were changes made, yes.

Q. Can you recall any changes, specifically?

A. I can't specifically recall what the specific—the changes.

Q. Can you recall whether you discussed the 6th Congressional District at all during that meeting?

A. We discussed every district in that meeting, I'm sure.

Q. Do you have any specific recollection of talking about the 6th Congressional District during that meeting?

A. We would have talked about every district.

Q. Okay. Do you recall anything that you said regarding the 6th Congressional District during that meeting?

A. No.

Q. Do you recall anything that—[178]

A. I mean, I would have said something about every single district. I'm sorry, I talked over you. I apologize. I apologize.

Q. Okay. Don't worry about it. It just happens.

A. Okay.

Q. Do you recall anything that any of the people attending the meeting told you about the 6th Congressional District?

A. I can't recall anything specific, no.

Q. How long did the meeting last?

A. I don't know exactly. It feels like a few hours, I guess.

Q. Okay. Who invited you to the meeting?

A. I don't remember.

Q. Who—did Mr. Gersh or anyone else at NCEC Services tell you that you should attend the meeting?

A. I don't—I don't remember how that—the meeting was set up or arranged, and who would have told me about it.

Q. Were there any attorneys in the room [179] during the meeting?

A. I don't remember.

Q. Did you send any emails as a result of the meeting?

A. I don't remember that.

Q. Did you discuss the meeting with Mr. Gersh or anyone at NCEC Services after the meeting was over?

A. I don't remember specifically.

Q. Would it have been your practice to discuss it with them?

A. I mean, possibly. I don't remember.

Q. Did you discuss the meeting you had in Annapolis with anyone on—any member of Maryland's U.S. House delegation?

A. I don't remember discussing it with any member.

Q. Did you discuss it with any of their staffers?

A. Well, I would have—I don't remember who I would have discussed it with, but I'm sure I would have discussed it with somebody, one of the [180] staffers, yeah.

Q. Okay. And can you recall anything that was discussed during the meeting, besides sort of just generally discussing the map, and each of the districts that were in the map?

A. I'm sorry. Can you ask that again?

Q. Oh, sure. Can you recall anything that was discussed at this meeting in Annapolis, besides the congressional districts and a general discussion of each congressional district?

A. No.

Q. And do you have any notes or documents in your possession, that you're aware of, regarding this meeting?

A. No.

Q. Are you aware of any notes or documents in NCEC Services' possession regarding this meeting?

A. No, there aren't any.

Q. Can you tell me, beyond it occurring in the fall of 2011, with any specificity, which month in 2011 the meeting occurred?

A. I'm sorry. I just—I can't remember [181] exactly. It just would have been the end of this process.

* * *

Q. I'm on the first page of Exhibit 69, and I'm starting with the second sentence. It reads, "some observers have suggested that campaigns should give less consideration to data and metrics going forward. We would caution against this conclusion. In many cases, existing metrics like NCEC's Democratic Performance Index, DPI, accurately depicted the competitive nature of marginal congressional seats." Did I read that correctly?

A. Yes.

Q. Do you believe that statement to be true?

A. Yes.

Q. Do you believe that NCEC's Democratic Performance Index is accurate?

A. Yes, I mean, it depends on how it's used, but—and what—

Q. Certainly. [203]

A. In what context.

Q. When used properly, do you believe that it's accurate?

A. Oh, sure, because this article was a push back against people that want to use modeling and other things, rather than actual election results.

Q. These are people who said that Nate Silver got it wrong, so everybody must be wrong, correct?

A. Yeah, and there are other—there are people that think that the wrong districts were targeted in this last race. And I'm sorry, I'm going to—the wrong districts were targeted, and that the—I'm going into another area. I'll end that.

Q. Okay. Fair enough.

A. It has caused a little bit of a—there was some anger at NCEC over—that generated this.

Q. I can imagine.

A. Okay.

Q. So on the second page, there is a chart that is titled—on the second page of Exhibit 69, [204] I should say, there is a chart that's titled, November 8th, 2016 general election results, Democratic major party vote share for U.S. House versus NCEC Democratic performance in 35 targeted districts. Do you see that?

A. Yes.

Q. Okay. And then if you look at Exhibit 70, that's a blow-up of that chart, correct?

A. Yes, absolutely.

Q. Okay. So because my eyes aren't good, let's look at Exhibit 70.

A. Please.

Q. So the X axis of this chart, that's Democratic—the Democratic Performance Index, correct?

A. Yes.

Q. All right. Do you see, on the X axis, Democratic performance of 52.5 percent?

A. Yes.

Q. Okay. And to the right of that, there are elections that were held in districts that had greater than 52.5 percent Democratic performance, [205] correct?

A. That's right.

Q. Okay. And in those elections, there is only one Republican in these targeted—35 targeted races who won an election in a district with 52.5 percent Democratic performance or more, correct?

A. On this chart, but these are targeted races.

Q. Sure.

A. So—

Q. My question is just about the chart.

A. I mean, as we both know, there are 400 other districts.

Q. Right.

A. Okay.

Q. As you sit here today, can you give me an example of a Republican who won in a House district that had 52.5 percent Democratic performance or more?

A. Maybe Peter King in New York. I'm not sure what his Democratic performance is, but it's over 50, I know that. There are others. I can't [206] think of them straight off the top of my head, though.

Q. But beyond Peter King, you can't think of anybody right now?

A. Right.

Q. Okay. All right. I'm sorry. Go ahead.

A. No, you know what? I actually appreciate that you're putting this into the record. Thank you.

Q. Oh, no problem. So you can tell people that it matters.

A. Yeah, absolutely. I appreciate it.

* * *

Q. So was one of the purposes of redrawing the boundaries of Maryland's 6th Congressional District, to make it more difficult for a Republican to achieve electoral success in the 6th [228] Congressional District?

MS. RICE: Objection.

THE WITNESS: Again, I just—the purpose of the—of what we were doing was, number one, incumbent protection. And number two, trying to see if there was a way that there was another Democrat district in the state. So if there was another more Democratic district in the state that became more Democratic, that doesn't necessarily mean that a Republican wouldn't win there, but I suppose it would—that isn't—any time a district changes, it makes it more difficult for the incumbent.

BY MR. MEDLOCK:

Q. Was one of the goals of redrawing the boundaries of Maryland's congressional districts in 2011, when you did that, to reallocate Democratic voters to the 6th Congressional District?

MS. RICE: Objection.

THE WITNESS: Well, it was a distribution of Democrats throughout the entire state. There are—that's what happens when you redraw the map. [229]

It's—all the districts are involved. So again, we were trying to see if there was a way in which

you could actually have another Democratic district because the state is so Democratic.

BY MR. MEDLOCK:

Q. And to make another district more Democratic—well, let me back up. To make the 6th District more Democratic, when redrawing the boundaries of Maryland's congressional districts, would you have needed to allocate more Democrats into the 6th Congressional District to achieve that result?

MS. RICE: Objection.

THE WITNESS: Well, I mean, you can—I mean, putting more Democrats into another district makes it more Democratic.

BY MR. MEDLOCK:

Q. Right.

A. Yeah.

Q. When you say that one of the goals was to see if there was a way to make another Democratic district, did you succeed in making another [230] Democratic district?

A. Well, that district became more Democratic, and a Democrat won there. I would still, at that time, have called that district a marginal district, because it wasn't overwhelmingly Democratic.

Q. Can you name me a district-wide election that a Republican has won in that district since redistricting?

A. Well, I haven't looked at it or researched it, because, again, I don't do a lot of work in Maryland, because it's not really—it's so Democratic, and I focus on—I do most of my work in other states, so I don't know that.

Q. When you redrew the boundaries of Maryland's congressional districts, did you intend to make the 6th Congressional District more Democratic?

A. The intent was to see if there was a way to get another Democratic district in the state, to reflect the state's voting behavior. So there were two districts you could look at, based on what [231] was—what the lineup was.

Q. Do you feel that, in 2011, before redistricting, Republicans were overrepresented in Maryland's U.S. House delegation?

A. Well, based on the voting behavior, yes. I mean, the statewide voting behavior is the district—the state is very Democratic. And it could easy support another Democratic district, and possibly if you weren't worried about incumbent protection, you could support eight Democratic districts.

Q. You used the phrase incumbent protection a few times in your last few answers. When you refer to incumbent protection, are you talking about protecting all incumbents or protecting Democratic incumbents?

MS. FROST: Objection. Asked and answered.

THE WITNESS: We were working for the Democratic House delegation, so we did have—I did answer that. And we did look at Democrats.

A. Do you want to talk about the 270 corridor?

Q. If you want. I mean, I don't know what you're—

A. That's what I remember, okay? I can [59] only tell you what I remember vaguely or not vaguely.

Q. You mentioned the 270 corridor. You're talking about Interstate 270?

A. Is that the corridor that goes up Western Maryland? Yes.

Q. And you believe that Interstate 270 goes up Western Maryland, right?

A. I think.

Q. Okay. Why, if at all, was Interstate 270 relevant to your work on the GRAC?

A. What was relevant to my work on the GRAC was because there was a population issue there that I remember hearing about in the hearings.

Q. What was the population issue you remember hearing about?

A. I get a little confused. Either people in Washington were working in Washington and living in Western Maryland or—

Q. Vice versa?

A. Vice versa, yeah. I can't remember.

* * *

[83] * * *

Q. I should say not the public hearings, but your private meetings of the GRAC. Do you recall that district being discussed?

A. I remember discussing population trends, the Western Maryland population trend. I told you

this before, the two things I remember. The Western Maryland 270 population trend I remember, and I remember the increase in the Hispanic population, which could be merged with the state thing.

* * *

Q. Can you recall anything else regarding the maps and presentations that Mr. Weissman and Mr. Baker made during the GRAC meetings?

A. I remember the—yes.

Q. Okay, please go ahead.

A. I remember the Prince George's County [92] and Montgomery County issue with Donna Edwards.

Q. What was that issue?

A. That issue was that she wanted to have her district cross jurisdictional lines, and I remember that because, in the hearings, people didn't want to do that. I remember the Prince George's County people—

Q. They didn't want to be lumped with Montgomery County?

A. They didn't want to be lumped with Montgomery County.

* * *

Q. Do you see the reference to 58 percent Democratic performance.

A. I sure do.

Q. What does that mean?

MS. KATZ: Objection, foundation.

THE WITNESS: What do I remember that that meant? My recollection—I don't have a real recollection, except I do have sort of a common sense interpretation of it.

BY MR. MEDLOCK:

Q. Okay. What's your common sense interpretation of it?

A. That if you have more Republicans than Democrats, then maybe you'll have a Republican seat. If you have more Democrats than Republicans, you might have a Democratic seat.

Q. Got it. [131]

A Yeah, I'm sure you do.

Q. Do you know where the 58 percent Democratic performance metric came from?

A. No, but I—

MS. KATZ: Objection.

THE WITNESS: I think the guys probably do.

BY MR. MEDLOCK:

Q. Who do you mean by "the guys"?

A. Jake and Jeremy and Joe.

Q. Just so I've got it real clear, Jake Weissman, Jeremy Baker and Joe Bryce?

A. Correct.

Q. What makes you believe that Jake Weissman, Jeremy Baker and Joe Bryce would know where this Democratic performance number came from?

A. Because I was not focusing on statistics. I assumed that they were.

Q. Okay.

A. And numbers. You know, they had to look at all the—they were looking at numbers. [132]

Q. To your mind, they were focused on numbers and statistics?

A. To my mind.

Q. Okay. Did you ever hear them use the term "Democratic performance" when you were speaking with them?

A I have heard that term, yes.

Q. Did you ever hear it when you were speaking with Mr. Bryce, Mr. Weissman or Mr. Baker?

A. Yeah, they would have mentioned that, yes.

Q. Do you remember in what context they would have mentioned it?

A. I can't visualize a meeting or conversation, but I can remember that there was that discussion, or that I've heard that or I'm familiar with that.

Q. Uh-hmm.

A. I was focused on race.

Q. I understand.

A. Okay. [133]

Q. I understand.

A. So if you refresh my recollection, it would be sharper on the issue of minority representation than it would be on this issue.

Q. Okay. So you were more focused on minority representation than you were on the Democratic performance issue?

A. I will say this: My recollection is sharper on those issues because those are issues that resonate in the mind of Jeanne Hitchcock.

Q. Okay.

A. Okay? All right. That's what I mean when I say that.

Q. How many times did you hear Mr. Baker, Mr. Weissman or Mr. Bryce mention the term "Democratic performance"?

MS. KATZ: Objection.

THE WITNESS: I don't know. Maybe in—sort of like at the end where you're sort of—where I'm being briefed about the elements of the map would be what I would speculate would be when I would hear that. [134]

BY MR. MEDLOCK:

Q. So you said when you were being briefed about the elements of the map at the end.

Was there a briefing towards the end of the GRAC process where you were actually briefed about certain elements?

A. Yes, that would have been true.

Q. When did that briefing occur, to your knowledge?

A. Well, obviously at the end of all the hearings, and obviously before I would have to say anything in public, and I would think it was before the principals saw it.

Q. Who gave you that briefing?

A. It would have been Jeremy, Jake, Joe, I would think.

Q. Where did that briefing take place?

A. It would have been in that same office.

Q. How long did the briefing last?

A. I don't remember that specifically, but it would have been an hour. I would have—[135] an hour. I mean, not long.

Q. Were any other members of the GRAC present for this briefing?

A. First, I can't actually remember the briefing, okay?

Q. Okay.

A. I am speculating that a briefing would have taken place because somebody would have shown me a briefing, a map, before I was finished.

So what is your question?

Q. My question is, to the extent you recall the briefing, were any other members of the GRAC present for that briefing?

A. I actually can visualize a meeting with us in that meeting seeing a final map.

Q. When you say "us," who do you mean?

A. Miller, Busch, I think—what's the other guy's name?

Q. Mr. Stewart?

A. No.

Q. Mr. King?

A. King, Mr. King. I have a vague [136] recollection of such a briefing.

Q. And do you have a recollection of the term "Democratic performance" being mentioned during that briefing?

A. No, I would not have a recollection of that being mentioned at that meeting.

Q. Okay. But you just have a general recollection of having heard the term "Democratic performance" from either Mr. Weissman, Mr. Baker or Mr. Bryce?

A. Correct.

Q. So you can't tell me when you actually heard that?

A. Yeah, I cannot tell you that.

* * *

Q. All right, I'm showing you what we've marked as Exhibit 104.

A. Okay.

Q. It is a document that is several hundred pages long entitled "Governor's Redistricting Advisory Committee Briefing Book 2011." Do you see that?

A. Yes, I do.

Q. And at the bottom of the first page it says, "Prepared by: Maryland Department of Planning."

A. Yes.

Q. Do you recall receiving a briefing book from the Maryland Department of Planning as a member of the Redistricting Advisory Committee?

A. No.

Q. Do you recall ever asking for such a briefing book?

A. No.

Q. Okay. Do you recall our conversation earlier today about the I-270 corridor? [167]

A. Yes.

Q. Here's what I'd like to do. I'll give you the next 15 minutes to look through this. Show me where you can find information about the I-270 corridor in it.

A. Is it in there?

Q. I'll let you find it if it's in there.

A. You want me to—

Q. Sure.

A. Okay, I will do that. I don't know what I'm looking at, actually. Okay, we'll be here for a minute.

Okay, so is there an easier way to do this? Because if it's about District 5, then it wouldn't be there, right?

Q. I'm not really sure how this is put together.

A. Never mind. Okay, I'll do it.

(Witness reviewing Exhibit 104.)

I think this is put together by—Why is he smiling? He's smiling.

MS. KATZ: Steve, can I speak to you? [168]

MR. MEDLOCK: Sure.

(Pause in the proceedings for counsel to confer.)

MS. KATZ: I'm just going to object to this—I don't even know if it's a question that's been posed.

Ms. Hitchcock has testified that she didn't recall seeing this document. This is inappropriate and borders on harassment to have her do this.

MR. MEDLOCK: Are you done with your objection?

MS. KATZ: Yes.

MR. MEDLOCK: Okay. I'll make my response now.

First, there was a question, and she's trying to answer it.

Second, this is not harassment. This is a question that goes to the exact heart of this case, which is what evidence the GRAC received, what evidence the GRAC looked at, and what evidence the GRAC considered. This is a document [169] titled "Governor's Redistricting Advisory Committee Briefing Book 2011."

And then, third, I'll add that speaking objections are not allowed in this district, and this is exactly why, because people end up putting their briefs on the record.

So with that said, I'd still like an answer to my question.

THE WITNESS: Repeat your question.

BY MR. MEDLOCK:

Q. Sure. You've had a chance to review the entirety of the briefing book, correct?

A. Briefly, briefly, briefly.

Q. You've flipped through it?

A. Yes.

Q. Okay. When you flipped through it, could you find any information regarding the I-270 corridor in the briefing book?

A. I did not see it.

Q. Did you ever request a briefing book from the Maryland Department of Planning regarding the I-270 corridor? [170]

A No.

Q. Did anyone else on the GRAC ever request a briefing book or any information—let me back up.

Did anyone else on the GRAC request a briefing book from the Maryland Department of Planning regarding the I-270 corridor?

MS. KATZ: Objection.

THE WITNESS: I don't know.

BY MR. MEDLOCK:

Q. Do you know whether anyone on the GRAC requested any information regarding the I-270 corridor from the Maryland Department of Legislative Services?

A. I don't know.

Q. Do you know whether anyone on the GRAC requested any information from any outside group regarding the I-270 corridor?

A. I don't know.

Q. Did you do so?

A. Request it?

Q. Yes, make that request. [171]

A. No, I did not.

Q. Do you recall making any request at any point in time that you were on the GRAC for any information regarding the I-270 corridor?

A. Not that I recall, no.

Q. Do you recall anyone else—

A. Wait a minute, say that question.

Q. Sure.

A. Do I remember making a request for data?

Q. Any sort of information regarding the I-270 corridor.

A. Did I make a request for it?

Q. Yes.

A. No.

Q. Do you recall ever receiving any information regarding the I-270 corridor?

A. At the hearing.

Q. Besides the hearing, do you recall receiving any information?

A. No, no.

Q. Okay. When you gave feedback on [172] proposed congressional maps in Mr. Weissman or Mr. Baker's office, did you ever indicate to them that the maps did not reflect the public comments that you had received?

A. Possibly on the state side with that La Plata/Charles County stuff. That's the only thing I remember.

Q. Besides that, you can't remember ever doing that?

A. No, I can't remember doing that.

Q. And that's because you don't recall doing it; is that right?

A. I don't recall doing it.

Q. You just don't remember one way or the other whether you did or didn't?

A. I don't recall one way or the other.

Q. Okay. Do you recall Mr. Weissman or Mr. Baker ever changing the lines of the congressional map during your meetings with them?

A. No.

Q. Do you recall Mr. Baker or Mr. Weissman ever saying that they would change [173] the lines of the draft congressional map based on the feedback that you gave them?

A. I don't know. I don't remember. Possibly Baltimore City.

Q. With the exception of Baltimore City, do you recall Mr. Baker or Mr. Weissman ever saying that they would change the lines of any other part of the draft congressional map based on the feedback you gave them?

A. Not that I recall, no.

Q. Do you ever recall discussing former Congressman Frank Kratovil with Mr. Weissman or Mr. Baker?

A. No.

Q. Do you recall ever speaking to Mr. Weissman or Mr. Baker during these meetings where you were shown the maps about Roscoe Bartlett?

A. No.

Q. You just don't recall one way or the other?

A. What's your question about Roscoe [174] Bartlett?

Q. Yeah. Do you recall one way or the other whether you actually discussed Roscoe Bartlett during these meetings?

A. I don't recall. I do not recall discussing Roscoe Bartlett with staff.

Maryland Department of Planning
Interagency Memorandum

MARYLAND DEPARTMENT OF PLANNING
INTERAGENCY MEMORANDUM

TO: The Honorable Martin O'Malley, Governor

FROM: Richard E. Hall, Secretary

DATE: July 30, 2010

CC: Matt Gallagher, Chief of Staff
Joe Bryce, Chief Legislative Officer
Ted Dallas, Deputy Chief of Staff
John McDonough, Secretary of State
Brian Hammock, Special Assistant
Matt Power, Deputy Secretary

RE: Redistricting—Timeline, Key Issues, Discussion

I. Executive Summary

Now that the Census outreach effort is behind us, its primary purpose of redistricting is approaching. This memorandum provides background on state and congressional redistricting and outlines related issues and timelines of note. While redistricting may seem a long time off, we have already had several meetings with Karl Aro at DLS about the issue, and the general chatter level has increased. We have already begun some of the background work with the data, looking at which redistricting software to purchase, etc. The first key visible steps for the Governor associated with redistricting is appointing the advisory committee. Customarily this would occur in January 2011 which means the discussion of possible candidates should begin now. We get the data from the Census Bureau in

late February 2011. During the next few months it may be helpful to remind legislators and congressmen that the next Governor draws the legislative boundaries and that we are preparing to do this now. Maryland is the only state where the redistricting plan is the Governor's plan.

MDP has been the primary staff to the Governor in preparing the redistricting maps and related work since the early 1970's. Therefore much of this information is based on the agency's past experience. Obviously DLS puts significant resources into the effort as well. This memorandum also outlines recommended preparations, including budget and staffing.

II. Decisions and Recommendation Actions

The primary purpose of this memorandum is to provide an update on redistricting, outline a proposed schedule, and to highlight key issues. The only action I suggest now is to direct me to work with John McDonough, Joe Bryce, Matt Gallagher et al. to move forward. In addition, we will be working with DBM on a deficiency request to support some of the redistricting costs.

III. Background, Process and Timeline

Outlined below is the redistricting process and major milestones that will occur during the next two years. This timeframe, much of which is driven by Federal and state requirements, needs to be kept in mind so that the budgetary and staff preparations can be in place as the work proceeds during these two years.

- January 2011—Governor appoints redistricting advisory committee.
- February or March 2011—MDP receives census data.

- May to August 2011—Public hearings held by advisory committee around the state.
- May to Fall 2011—State and Congressional plans developed.
- Early Fall 2011—Public hearing on draft Congressional plan.
- Fall 2011—Governor calls special legislative session for congressional redistricting due to the early primary election date (February 14, 2012).
- November 2011—Redistricting advisory committee submits state plan to the Governor.
- December 2011—Governor holds public hearings on state plan.
- January 11, 2012—Governor submits state redistricting plan to General Assembly as Joint Resolution.
- February 24, 2012—45th day, General Assembly must enact plan by end of this day or the Governor's plan takes effect.
- Anytime after February 24, 2012—Go to Court of Appeals to defend the plan.

IV. Governor's Advisory Committee on Redistricting

A. Background

For the past three rounds of redistricting, 1981, 1991 and 2001, the Governor has appointed an Advisory Committee on Redistricting (Committee). Neither the State Constitution nor State law requires the appointment of such a Committee. The idea to appoint a Committee stemmed from the Court of Appeals invalidation of the 1972 redistricting plan submitted by the Governor and adopted by the General Assembly because the Governor failed to hold public hearings on the plan. The Committee should hold hearings across the state to receive public input on the plan to ensure

that a plan was not invalidated by the court. When the 1981 redistricting plan was challenged in court, the Court of Appeals rejected a lack of public hearings claim noting that the record showed that numerous public hearings were conducted by the Governor's Committee throughout the state as well two hearings that were personally conducted by the Governor to receive comment on the recommended legislative districting plan before its final adoption.

The creation of a Committee also served an important secondary purpose of allowing the President and the Speaker to engage in the creation of the Governor's plan early on in the process thus preventing a major attempt by the General Assembly to pass its own redistricting plan. The Commission has provided a useful vehicle for this collaboration to occur. To date, the General Assembly has never passed its own redistricting plan and the Governor's plan has always gone into effect on the 45th day of Session. Maryland is a unique State regarding redistricting, no other state gives the governor this much power in the effort.

The Committee has always consisted of five members: a designee of the Governor, the President of the Senate, the Speaker of the House, and two citizen members. Of the two citizen members, one has been a republican. One member of the committee has also been an African-American. The following lists the make-up of the last three advisory committees.

- **1981 Committee**—William S. James, State Treasurer and chairman (Governor's designee), Senate President James Clark, Jr., Speaker Benjamin L. Cardin, Dr. C. Vernon Gray, a Democrat from Howard County and a professor at Morgan State University, and Barbara Fetterhoff, from Washington County and a

member of the League of Women Voters (republican).

- **1991 Committee**—Benjamin L. Brown, an attorney from Baltimore, chairman (Governor's designee and African-American), President Mike Miller, Speaker Clayton Mitchell Jr., Norman Glasgow Sr., an attorney from Montgomery County (republican), and Donna M. Felling, a former member of the House of Delegates from Baltimore County.
- **2001 Committee**—John T. Willis, Secretary of State and chairman (Governor's designee), President Mike Miller, Speaker Casper R. Taylor, Isiah Leggett, Montgomery County Councilman, and Louis L. Gulyas, Worcester County Commissioner (republican).

B. Process

The Committee is appointed by the Governor just before MDP receives the census data from the US Census Bureau (January 2011). Appointment of the Committee prior to receiving the data allows the Committee to hold at least one organizational meeting to establish the rules and procedures that will govern the meetings of the Committee. It also allows staff to begin the difficult process of scheduling at least 12 public hearings across the State since the President of Senate and the Speaker of the House attend each of the public hearings. While the Committees in the past have consisted of 5 members with one African-American member, an expansion of the Committee to 7 members may need to be considered to ensure that other emerging minority groups (Hispanics, Asians, etc.) are included. This may be particularly important in the light of the fact that a majority minority Hispanic district may (depending on the census data and other factors) have to be created

pursuant to the Voting Rights Act. *See* Part V. Trends & Issues below.

The approximately 12 public hearings are held across the state beginning in the spring of 2011 through the summer in order to allow the public to testify on redistricting and to present to the Committee redistricting plans drawn by the public and various interest groups. All of the hearings are transcribed and become part of the record of the creation of the plan which is ultimately presented to the Court of Appeals (or the Federal District Court for the Congressional Plan) when the Plans are challenged.

Concurrently with the public hearing process, the Committee begins the process of developing both the state and congressional redistricting plans. Plans developed during this time are informed by the public input. They are initially kept internal to the Committee and serve as the key work product for the Committee as they move towards final plans to present to the Governor.

The early congressional primary requires a special session of the General Assembly for a congressional redistricting plan that will occur in February 2012. Given this timing, it is likely that the Committee will need to finish the congressional plan first. The state legislative districts will not take effect until the 2014 elections. It is important to note that unlike the state plan, the Governor has no constitutional or statutory responsibility for the congressional plan and it is introduced like a regular bill and subject to the Governor's veto.

After the state plan is developed and adopted by the Committee, the Governor will hold at least one public hearing to take testimony from the General Assembly and the public on the plan adopted by the Committee. The Governor is not bound to submit the

plan adopted by the Committee. In the last round of redistricting, after the state plan was presented, Governor Glendenning received last minute appeals, from several legislators and he made several small changes to the plan before he submitted it to the General Assembly on the first day of the session. Thus, the Committee's plan was not the plan that was ultimately submitted by the Governor.

C. Role of MDP

MDP has served as the primary staff on redistricting since the early 1970's. Since the creation of the Committee in 1981, MDP has served as primary staff to the Committee representing the interests of the executive branch along with the Governor's designee. The Department of Legislative Services ("DLS") also serves as the staff to the Committee to represent the interests of the legislative branch. MDP staff works with the Governor's staff and the Governor's designee on the Committee to prepare the maps for both the Congressional and state plans. MDP also prepares the maps requested by the Committee. On the other hand, DLS only prepares the maps requested by members of the General Assembly that occurs during the Committee process and during the legislative sessions.

During the process of preparing the maps for the Governor to review as well as officially for the Committee, a consultant is necessary to advise the Committee on the various legal requirements (US Constitution, Federal Voting Rights Act, and Maryland Constitution) and whether the plan meets those requirements. This same consultant then becomes the necessary expert witness for the Administration and General Assembly when the plans are challenged in court. Some states are hiring such consultants now in order to get the best consultants for redistricting and to prevent those that may challenge a redistricting plan in court from hiring

a consultant that we may want to use. Karl Aro is working on funding what he sees as his half of the consultant's work and the Administration will be expected to pay for its share of the consultant.

In addition to preparing the maps for the Governor and the Committee, MDP historically provided staffing to the committee including staffing all of the public hearings that are held across the State by the Committee. MDP is traditionally responsible for scheduling and organizing the public hearing. Because the Speaker and the President attend all of the public hearings, the process of scheduling them is very difficult. MDP also is responsible for compiling the public record from these hearings, including the taping and transcription of the testimony, because the public record becomes part of the eventual court submissions. While we are always striving to limit funding requests and to share expenses with DLS, we need to work with you to secure a budget for these efforts.

V. Other Roles of MDP

In addition to staffing the Governor and Committee, MDP duties are as follows:

- Compile election data obtained from the State Administrative Board of Election Laws (SABEL) and local Boards of Supervisors of Elections, including voter registration, voter turnout and election results compiled by precinct for primary and general elections for President, U.S. Senate, Congress, State Senate and House of Delegates so that the redistricting software links to the precinct level polygons used in redistricting.
- Preparing, using our GIS staff, all of the Congressional and State redistricting plans, requested by the Governor, the advisory commit-

tee, and the publically submitted plans. These plans must be composed of districts and subdistricts (2000 maximum allowable) using a seamless statewide map and assigning any combination of contiguous counties, election districts, voting districts (precincts) or census tabulation blocks to a district/subdistrict.

- Analyze the census data, in conjunction with the redistricting consultant, to determine the majority minority districts that may need to be created as required by the US Constitution and the Voting Rights Act and the Maryland Constitutional requirements.
- Design and develop redistricting website that will inform the public of the activities of the advisory committee, display plans being considered by the committee and submitted to the Governor, allow public to submit comments to the advisory committee.
- Procure the software needed to create the redistricting plan.
- Work with others in the Administration to develop a redistricting plan that is defensible, is based on the data and analysis, and achieves the Governor's objectives.
- Handle inquires on the activities of the Committee.
- Assist the Attorney General's Office in preparing for a court challenge.

VI. Budget Requests

Historically, it has been MDP's budget that has housed the funds necessary to carry out redistricting, including the consultant. DLS will have the staff and funds to perform their activities for the General Assembly and for the Committee. However, if DLS is ul-

timately providing all of the redistricting funds and services and the Administration funds none of these activities, such as engaging the consultant, it may affect the ability of the Governor to adequately formulate his plan.

MDP's budget requests have been consistent with the submission of resources allocated in FY 2001. One of the primary factors in requesting some of the equipment, such as computers and plotters for the maps, is security. Obviously, given the extremely sensitive nature of the maps that we will be producing, we need to have dedicated computers and plotters in Baltimore and Annapolis that are only accessible to our redistricting staff.

MDP's over-the-target budget request for FY 2011 was $472,000 and it was not funded. This request consisted of the follow:

- Contractual database to hold election data;
- Contractual planner for redistricting technical assistance;
- Contractual PIO to handle public hearings and public inquiries (6 months)
- Interns for public hearings;
- Equipment—laptops and plotters and map reproduction;
- Redistricting software and training for software;
- Website upgrades for plan publication;
- Public hearing expenses including publication of notices, room fees, audio visual equipment, travel, and stenographer for hearing transcripts; and
- Expert/consultant to advise Governor/Committee (consultant also becomes expert witness in court challenge; this component represents $250,000 of the request.

VII. Preliminary Trends and Issues

Until we see the actual census data, it is difficult to predict exactly what the State will be facing in terms of redistricting. However, here are some potential issues we are likely to face:

- *Creation of a majority minority Hispanic district in Montgomery or Prince George's Counties.* In the last redistricting the Hispanic population numbers did not require the creation of such a district. Whether a district must be created will depend in large part on whether the minority group is likely to result in a compact district. In these two countries, the Hispanic community is fairly dispersed which may cause difficulty in creating a district that would withstand a "compactness" legal challenge.
- *Loss of a district in Baltimore City.* If the census data show continued loss of population in Baltimore City, either the City loses a district or one of those districts will need to cross the City lines into Baltimore or Anne Arundel counties. The crossing of the district into a county raises significant legal issues in light of the Court of Appeals' decision in 2002 that the cross City/county districts violated the Maryland Constitution's mandate that "due regard" be given to political boundaries. While Governor Schaefer's 1991 plan did cross the City line, this 2002 decision raises the legal bar in doing it again.
- *New legislation regarding how the prison population is counted.* Ultimately this will help Baltimore City and somewhat affect the lower Eastern Shore and Western Maryland (i.e. Somerset, Allegany and Washington counties). Senate Bill 400 requires incarcerated individu-

als be counted as residents of their last known address before being incarcerated. This means that a prisoner from Baltimore City housed in Hagerstown will be counted in Baltimore City rather than Washington County. MDP is currently working with DPSCS to get the prisoner address database to implement this new law. We are also requesting the same prisoner database from the federal prison in Cumberland since this law also applies to prisoners from Maryland in the federal prison.

- *Congressional Reapportionment.* Maryland's population has not grown enough to result in an additional congressional seat, nor has it lost population to lose a seat.
- *Changes in mapping software.* Some of the redistricting software out there now (currently it is changing every few months as the companies firm up their final versions in time for the redistricting work to begin) not only pushes draft maps out to the web for review and comment, others allow on line submittal of draft plans, and some even allow users to create plans on line and submit them. This may be in keeping with the Governor's priorities of providing on-line maps for Marylanders to review and use; however, it will potentially generate a huge number of draft submittals with limited backing.

VIII. Next Steps

We will schedule a meeting with Matt, John, and Joe to discuss these issues and outline next steps for the Administration.

Q. So you could—so going back to my—where I started my line of questioning, if you're a mapmaker and you're coming out of—drawing the Sixth Congressional District, coming out of the panhandle of Maryland, you can either go south along the Potomac to an area where you describe in your book liberalism is a given, or you can go east along the Mason-Dixon Line. Those are your two basic options, correct?

A. Right. And over the—well, there's been a—remember, up until 1964 it always went south. So when you—it was only in 1966 did it go further east, and then, based on population pressures and changes over the last five census, there have been [121] adjustments on that eastern boundary line, you know.

Q. So for the last 50 years the way the mapmakers did this was they went east more than they went south, correct?

A. Well, they also went south—

Q. Correct.

A. —during that time.

Q. But they picked up areas in the east like Carroll County—

A. Correct.

Q. —and other areas along the Mason-Dixon Line when they were drawing the Sixth Congressional District.

A. Correct. That's been done in some of the decades. It's all spelled out in the maps here.

Q. Right. Right. But that's traditionally the way it's been done from 1966 until 2011 was that Carroll—

A. Being a real traditionalist, I don't like the word traditional because historical that's not accurate.

Q. Okay. From 1966 to 2011, isn't it the [122] case that all of Carroll County was included in the Sixth Congressional District?

A. Since '66, correct, until 2000—

Q. '11.

A. Right.

Q. Is that right?

A. Correct.

Q. Okay. And from 1966 until 2011 all of Frederick County was also part of the Sixth Congressional District.

A. Correct.

Q. In fact you'd actually have to go back to—let me find one—to 1840 to find—

A. Yeah.

Q. —a congressional map—

A. And that was—those early 19th centuries were strange because we actually had a two-member district, which then the Congress outlawed—

Q. Right.

A. —so it put different pressures. But Frederick and Carroll and Montgomery—Frederick, Carroll and Montgomery were together in 1840, a [123] portion of Carroll was together. That's what that little note says on the map that you have your finger on.

Q. Right. Exactly.

A. Because Carroll was—actually came out of part of Baltimore County and part of Frederick County.

Q. Right. So just to make sure because I think we stepped on each other in talking.

A. That's fine.

Q. That's okay.

A. No, I love some of your analysis. I like it. It's great.

Q. Thank you. I try.

It's correct, right, that from 1840 onwards, 1840 until 2011, Frederick County was always in the same congressional district.

A. Correct.

Q. Okay.

A. Ever since that split that was caused, again, by apportionment decisions made at the federal level and creation of a new district. [124]

Q. Right. Okay. Let's turn back to your book, page 16.

A. I like this paper too.

Q. Thank you. Are you with me there on page 16?

A. Yeah.

Q. You have a section there called "Two Marylands," right, and you state, politically, quote:

Politically there are two Marylands today. Democratic Maryland is multiracial and multiethnic and spans all socioeconomic classes. This Maryland straddles the I-95 corridor that transects the most heavily populated and racially integrated sections and connects the Baltimore and Washington metropolitan areas.

Did I read that correctly?

A. Correct.

Q. Okay. And then you go on in the next paragraph to state, quote: [125]

Republican Maryland is predominantly rural or suburban, predominantly white, and increasingly conservative. Much of the Maryland Tidewater and Western Maryland counties now fall within this

category in statewide elections. In Central Maryland, Carroll County and Harford County are virtual citadels of Republican strength in county, state and federal elections.

Did I read that correctly?

A. That's correct.

Q. Okay. So to go back to this fundamental decision that a mapmaker has to make, if they go south, they go into an area that you describe in your book as an area where liberalism is a given. If they go east, they're going into Carroll and Harford counties into an area where you state is a citadel of Republican voters, correct?

A. That's correct. There's one complicating factor to your thesis, however, and that's Frederick. [126]

Q. Right.

A. Because Frederick has moderated over the last 20 years, and since this book has been written, you know, Frederick elected—has elected Democratic members of the General Assembly, elected a Democratic woman county exec. The marginal differences between Democratic vote performance have changed over the last decade or so.

And so Frederick's—that corridor that runs from Rockville to Frederick votes—Frederick is voting a lot more—Frederick City, in that environs, are voting a lot more like northern Montgomery votes.

So Frederick interrupts that scenario that you describe and query whether or not Frederick is becoming part of the core. And you see an expansion of that on the southern side of Maryland too with Charles County and Northern Anne Arundel County changing their patterns and behavior. So maps change all the time—

Q. Sure.

A. —and—but what you stated is correct, [127] except that you've got this big Frederick node in the middle that kind of interrupts that, that analysis that you—that you posited.

Q. Let's talk about the Frederick node then.

(Exhibit 168 marked for identification.)

Q. So I've put in front of what you we've marked as Exhibit 168 to your deposition. It's another portion of Professional McDonald's opening report.

A. Right. It's in color. I saw it in black and white.

Q. Oh, okay. So the version you saw—

A. The version I saw—

Q. —previously was in black and white.

A. I have it maybe on an electronic version in color.

Q. Okay. So I want to focus on page 22 first. This is a depiction in Professor McDonald's report showing the Frederick County and Frederick City area as it relates to the lines of the Sixth Congressional District and the Eighth Congressional [128] District, correct?

A. Correct.

Q. And as you noted, Frederick City sort of has a cut-out going around it. That Frederick City is in the Sixth Congressional District, correct?

A. Correct.

Q. While suburban areas around Frederick City such as Walkersville are in the Eighth Congressional District, correct?

A. Correct.

Q. All right. Flip to the next page, page 23. Page 23 shows a zoomed-in area around Frederick City this

time with the Democratic registration share in a two-party vote, correct?

A. Correct.

Q. And if you look at the areas that were in this Frederick City cutout that are in the Sixth Congressional District, those have Democratic registration share in many areas of 50% or greater, correct?

A. Correct.

Q. And is that what you meant earlier when [129] you said—when you look at the performance of Frederick City, it's starting to look like the performance of Rockville and other areas; is that what you were getting at?

A. Yes. Yeah. In other words, you just can't say Frederick is this. No. Frederick is becoming, as a county, is becoming a very competitive area, and you see that in all kinds of levels of results.

And the other thing that you got—I think you should be careful about when you look at these VTTs, these precinct lines here is to look at the municipal boundary lines, because the Frederick—this probably—I don't know if it tracks exactly, but I would want to look at where the municipal boundary lines are, and it may be that they included—

Q. So the city of Frederick on this map is represented by a dark green line.

A. Okay. So it looks like they included—not quite—maybe one—one precinct on this east side I see maybe outside the District, right... [130]

Q. Right. That's correct.

A. But the majority of Frederick City is in here. Okay.

Q. Right. So can you explain to me why specifically the GRAC in 2011 decided to put the Democratic-

leaning areas of Frederick City into the Sixth Congressional District but kept Republican-leaning suburbs, like Walkersville, out of the Sixth Congressional District?

A. Well, again—

MS. KATZ: Objection.

A. I don't know what's in anybody's mind, but attaching the city of Frederick would—in its entirety—would be consistent with what the practice had been particularly at the—when you do state legislative lines, you know, we try to keep municipalities—incorporated municipalities intact which are different in places—and the other pressure on the exact nature of this line is going to be population-based pressure to try to achieve population equality.

And so if you have to borrow—try to get to [131] the number, you have a couple options. You either trade precincts back and forth along the line of a boundary to get to population equality, or you have to split a precinct, but splitting a precinct, you try to avoid splitting a precinct, but if you have to split it to get—you could. The local governments and everybody likes if you can avoid splitting precincts. And so you get swaps with the VTDs going on.

* * *

[174] * * *

Q. Understood.

A. Because the way, historically, all the 50 years that I'm aware of that this process goes on, the Congressman tend to caucus and tend to then endeavor to come upon some consensus to present to the Governor, you know, what their ideas are. And so there weren't any Congressmen present, you know.

Q. Okay.

A. And there may have been conversations or communications between Hoyer's staff saying, here, we've set this meeting up for you and here's the place to go and here's who to call and contact. And so it was not an unfamiliar—

Q. Sure.

A. —thing for me.

* * *

Q. Right. So you could see, as you were making changes to this map on the wall, changes in Democratic performance—

A. Correct.

Q. —as you made differences—different changes to it.

A. Correct.

Q. And as you were making changes to the map, were the changes—

A. And you could see—I don't—I'd have to look again to see what they put into their performance index because I—

Q. I think that's sort of a state secret there, right? How they weight it I guess is, right?

A. Yeah.

Q. Right.

A. It's ...

Q. Because Democratic performance is a proprietary number that NCEC Services has, correct? [180]

A. Well, I don't know how they handle it. I mean, you know, most people generate something like that, that inputs results from a level—a variety of different races, and they come up with a number whatever way they do it.

Q. Sure. I know there's a lot of consultants out there who have different measurements—

A. Right.

Q. —but DPI is the NCEC Services one.

A. Correct. Right.

Q. And—

A. So whatever it was they were using in 2011, 2010.

Q. Right. So if I see someone talking about DPI, they're talking about something they got from NCEC Services, right?

A. Right.

Q. Is that right?

A. Correct.

Q. Okay. And if I saw someone talking about Democratic performance, that would be data information from NCEC Services as well, correct? [181]

MS. KATZ: Objection.

A. Maybe.

Q. Okay. It could be; is that right?

A. (Nodding head up and down.)

Q. Okay. I'm sorry. She can't take down shakes of the head. Is that a yes that it could be data from NCEC Services?

A. It could be.

Q. Okay. So let's get back to the map on the wall. So you were saying that, as there were changes being made to the map, you could see changes in the demographic information and in Democratic performance, correct?

A. Correct.

Q. And as you were making the changes, were those changes designed to increase or decrease Democratic performance?

A. They were designed to increase performance that would assist Congressman Kratovil—

Q. Okay. Understood.

A. —which is not necessarily the same because Congressman—every—every political [182] person has their own basis of support, and Congressman Kratovil grew up in Prince George's County, his, you know, family is from there, so some places were more familiar to him than others, you know. I think he went to Dematha too.

Q. Now we're getting into basketball talk. We can talk about this afterwards.

A. No, Frank was a soccer player.

Q. All right.

A. Yeah. So you look at that, but that's not always, you know, because it depends on your own career. And Frank was a prosecutor in Prince George's County, so he had his own basis of support, and being a former prosecutor in Queen Anne's County he had relationships.

* * *

Q. You can put that aside.

So you said historically what's happened is that the Democratic members of the House in Maryland would get together and come to a consensus, and however they would do that—[186]

A. Endeavor to come to a consensus.

Q. Endeavor to come to a consensus. Well put. And then that consensus and whatever—however close they have gotten to it will be somehow shared with state legislators, correct?

A. Well, the governor—both, probably legislators and the governor.

Q. Okay.

A. And in years past Republican members of Congress as well would convey their perspective to their leadership in the state legislature and to the governor—

Q. Right.

A. —so—

Q. That's the way it's always historically been done, correct?

A. Right.

Q. The process starts with the members of Congress, and then it flows to the governor and legislators, correct?

A. Right. Correct.

Q. And do you have any reason to doubt that [187] that's how it worked in 2011 based on how you were seeing it?

A. No, I would—that's—some of them have been there since reapportionment started, so ....

Q. So they have always been doing it that way.

A. I mean, they've been there—not reapportionment—since the—since the reapportionment decisions.

Q. Since the—since One Person, One Vote.

A. Steny has been there for every—every one.

Q. Okay.

A. Not in Congress. He was in the legislature in '70.

Q. So that's just kind of how it's been done in Maryland, correct?

A. Correct.

Q. Okay.

A. That doesn't mean that the governor always listens to the Congressmen—

Q. Sure. [188]

A. —or the legislators always follow every suggestion and every neighborhood, every precinct, whatever, but, you know, I would say there is, you know, there is—that communication line has always been there.

Q. And it's an important communication line.

A. Absolutely.

Q. And in your experience do governors and legislators try to do their best to respect the wishes of the—of the congressional delegation in redistricting?

A. For the last—since 1980, yes.

Q. Do you believe that Democrats should attempt to maximize the number of Democrats elected to the U.S. House of Representatives?

A. No.

Q. Why not?

A. I—I think that the—I think there are many factors drawing lines, and—well, communities of interest, corridors, municipalities, county lines, demographic groups.

You know, there's a lot of factors that enter into—

Q. So I wasn't talking about drawing lines yet. I was just talking about do you think that Democrats should try and get as many [14] Democrats as possible into the—

A. No.

Q. —U.S. House?

A. No, no.

Q. Okay. Do you believe that state legislatures should draw congressional lines in a way that maximizes the number of Democratic representatives in the U.S. House of Representatives?

A. I think that state legislators should draw the lines fairly, reflecting both parties.

Q. When you say reflecting both parties, can you explain what you mean there?

A. Reflecting both parties, but mostly reflecting the—like I told you, the population, the communities of interest, the counties, the exact number of people in districts.

You know, it's—you know, for example, Southern Maryland should have representation, the Washington metropolitan area should have representa-

tion, Western Maryland should have representation. [15]

You know, those are important regardless of party.

Q. After the 2010 Census, did you personally want to maximize the number of Democrats elected to the U.S. House of Representatives from Maryland?

A. No.

Q. And is that because of the factors that you stated earlier?

A. I'm old school. I would believe the parties work together.

Q. Uh-hmm.

A. It's been stated in the papers that—publicly—that I'm not afraid of hiring—I've been drawing lines because I think he'd be a fair person. He's a nice Republican.

Q. As you define the term, was Maryland's 2011 congressional map the result of a partisan gerrymander?

A. No.

MR. FROSH: Objection.

THE WITNESS: No. [16]

BY MR. MEDLOCK:

Q. Why not?

A. I was there for the hearings, and I saw the maps, saw the areas that made sense, and the only areas that I was really concerned about, because they were my areas that I'm familiar with, was the area going from St. Mary's County on up to Cumberland.

I'm a product of the Washington metropolitan area. I know the area well. I know—my wife's from

Bethesda, I'm from Southern Maryland. I know both areas very well.

Q. Uh-hmm.

A. I'm very familiar with Western Maryland and Southern Maryland, and I was concerned particularly with those areas.

Q. What was your concern particularly with Western Maryland?

A. Well, 1962, I was the driver for the Republican candidate for governor, and we traveled all through Western Maryland: Frederick, Hagerstown, Cumberland. I enjoyed my stays there. [17]

And like I say, my wife is from Bethesda, and we traveled extensively in that area. We dated for almost five years. And I belong to the Congressional Country Club in northern Montgomery County, and I'm very familiar with those areas.

Q. What specifically concerned you regarding Western Maryland during the 2011 redistricting process?

A. Like I told you before, in 1962, Montgomery County was in the 6th Congressional District.

Q. Uh-hmm.

A. I was part of it, help elected people in that district. I'm familiar with the areas. And when I saw a map that looked like the area that I was mostly familiar with in 1962, I like that—like that area. Not for Democrats or Republicans, but it just made sense. It made sense.

Gilbert Gude used to be the congressman, and he used to walk the Potomac River [18] from—from the top of the District all the way to south.

Mac Mathias, I visited his home in Frederick, had my picture taken with Eisenhower and him, front page of the Baltimore Sun. That was part of that

district, and the district made sense then, it makes sense now.

Q. Why does it make sense to you now?

A. When you look at a map, you see the 270 Corridor is protected, the Potomac River area is protected—is together, just like you see in the southern part of the state. St. Mary's, Charles, Calvert, Prince George's, they're all together. It's traditionally been Southern Maryland.

And, for example, when I first started in the House of Delegates, the Montgomery County Caucus would caucus with Western Maryland group. Montgomery County—most of the Montgomery County delegates were Republicans at that time.

Q. Uh-hmm. And you first started in the legislature in what year? [19]

A. '67.

Q. Has Montgomery County changed at all since 1967?

A. Yes.

Q. Has Western Maryland changed since 1967?

A. The whole state has.

Q. You mentioned the I-270 Corridor.

A. Right.

Q. Do you recall that?

Did you review any data concerning commuting patterns on I-270 before you voted on the proposed congressional map in 2011?

A. I drive it every second week or so. I spoke to the people in Frederick last week. I was in traffic over an hour on 270, plus. Plus I'm familiar with economic development part of the state.

My job is to bring jobs to the state and improve economic development, and I-270 is very important to link areas that need economic development with the Washington metropolitan area, [20] where we get most of our jobs from.

Q. So I guess my question was did you review any data concerning commuting patterns on Interstate 270—

A. No, no.

Q. —prior to voting on the congressional map?

A. No, no.

Q. Was any data concerning commuting patterns on Interstate 270 made available before you voted on the 2011 congressional map?

MR. FROSH: Objection.

THE WITNESS: It might have been. I don't remember it.

BY MR. MEDLOCK:

Q. Do you recall asking for any such data?

A. No.

Q. Was that—

A. I knew—I knew—I just know the area. I don't go to Congressional Country Club because it's too—too—too far to travel and [21] too expensive once you get there.

Q. I was going to add the second part.

That's key. Besides driving on I-270, did you look at any data or demographic information to satisfy yourself that there was some sort of link between Montgomery County and Frederick County based on the I-270 Corridor?

A. I'm sure there was data available. I don't remember it.

Q. Do you recall looking at it?

A. I recall looking at every piece of data that was in front of us, including information from the State Planning Commission, but I don't remember what that data was at this present time.

Q. So you can't recall whether there was data made available to you regarding any link between Montgomery County and Frederick County based on the I-270 Corridor?

MR. FROSH: Objection. It's compound and complex. [22]

THE WITNESS: I don't recall.

* * *

Q. Okay. And when you say that you're sure it was from the Governor's Office—

A. I'm talking about the final map. The final map, I mean, just like you—this is the Governor's planning. The Governor's in charge of the congressional plan. Just like you said Glendening had something on his desk to help him, I'm sure that Governor O'Malley had people in his office helping him.

Q. Uh-hmm.

A. His—see—

MR. FROSH: Let him ask a question.

THE WITNESS: Okay. All right.

BY MR. MEDLOCK:

Q. So do you know with any certainty, besides saying that you're sure that someone in the Governor's Office drew that map, who [82] specifically drew that map?

A. Well, I said it's a compilation. So, for example, the congressional people would have had input to this. The Governor's job is to mediate among the con-

gressional people to try to listen to their concerns, who wants College Park, who wants Fort Meade, you know, who feels best representing areas.

Q. Uh-hmm.

A. Plus, you take into consideration all the testimony that the public puts in. You know, what do they need and what do they feel best?

Q. Uh-hmm.

A. You hear from both parties, and you make a decision after hearing all the evidence, all the communications, and it's a combination of voices that brings you to the final map.

Q. I see. You said that congressional people would have had input on this map. What makes you say they would have had input on the map?

A. They've always had input on the map.

* * *

[97] * * *

Q. Do you agree that the redistricting process itself is inherently political?

A. I have no idea.

Q. From your experience on the—in the redistricting process, do you believe it's—

A. Like I told you, it's drawn—it primarily was drawn by the congressional people, so in that sense, it will be political.

Q. Okay, understood.

* * *

Q. Okay. Do you recall receiving demographic information about draft congressional plans?

A. No, I don't remember, but I'm sure—

I'm sure everything we did involved demographics.

Q. Okay. Do you recall whether your [116] staff received demographic information?

A. I'm sure the committee did, but—I'm sure the GRAC committee got it.

Q. Okay. Do you have any reason to doubt that the GRAC received this document?

A. This document?

Q. Yes, this page.

A. I doubt it. This is from AFL-CIO.

Q. Sir, I'm looking at the last page, sir, and they're not necessarily attachments.

A. It's not?

Q. No.

A. This doesn't go with this?

Q. So if you look at the prior page, do you see any reference to an attachment?

A. I don't know. I don't know. I just assume it came together. I don't know.

Q. Okay. Assume for the moment they don't come together.

A. Okay.

Q. Do you have any reason to doubt that the GRAC received this sort of demographic [117] information regarding plans that were submitted to the GRAC?

A. I don't know.

MR. FROSH: Objection.

THE WITNESS: I don't know.

BY MR. MEDLOCK:

Q. You don't know one way or the other?

A. I don't remember. It was six years ago. I don't remember.

Q. So the GRAC could have received this information, but you just don't recall?

A. That's correct.

Q. Okay. And do you have any recollection of seeing documents in this format before?

A. I'm sure I have at some point in time.

* * *

Q. Uh-hmm. And how long did he work for you, do you recall?

A. Several years.

Q. Okay. Do you know what role Mr. Bryce played in the 2011 congressional redistricting process?

A. I don't.

Q. Okay. Did you ever talk to Mr. Bryce regarding the 2011 congressional—

A. I'm sure I did.

Q. Do you recall any specifics of those [137] conversations?

A. No.

Q. Do you recall Mr. Weissman holding meetings in your office to look at draft congressional maps?

A. I don't.

Q. Do you recall Mr. Baker ever holding meetings like that in Speaker Busch's office?

A. I don't know.

Q. Do you recall Jeanne Hitchcock ever coming to your office to look at draft congressional maps?

A. I don't remember.

Q. Do you ever recall looking at draft congressional maps with Ms. Hitchcock outside of GRAC meetings?

A. I don't think so, but I don't remember.

* * *

Q. Okay. And do you think you speak with more credibility than the plaintiffs in this case regarding whether the 6th Congressional District was subject to a partisan gerrymandering?

MR. FROSH: Objection. It's vague and ambiguous.

THE WITNESS: I don't know who the plaintiff is.

BY MR. MEDLOCK:

Q. Do you know who any of them are?

A. Who?

Q. Do you know who any of the plaintiffs are in this case?

A. No.

Q. Do you know who O. John Benisek is?

A. No.

Q. Do you know where he lives? [189]

A. No.

Q. Do you know who Ned Cueman is?

A. No.

Q. Do you know where he lives?

A. No.

Q. Do you know what John Benisek's political views are?

A. No.

Q. Do you know what Ned Cueman's political views are?

A. No.

Q. How about Sharon Strine, do you know her?

A. No.

Q. Do you know what her political views are?

A. No.

Q. Do you know whether any of them were harmed in this case?

A. I don't know them.

Q. Okay. Do you think it's—their political views are at all relevant? [190]

A. I think everybody's political views are relevant.

Deposition of William Cooper

Q. Did you ask to see any documents before you were retained?

A. No, because it was my understanding at the time that my role was simply to produce an 8-0 Plan.

Q. Can you explain to me how producing an 8-0 Plan is relevant to the plaintiffs' legal claims in this case?

A. No. I'm not a lawyer.

Q. Can you explain to me how producing an 8-0 [17] Plan is at all relevant in this case?

A. Well, because my knowledge of the case is very limited, frankly, I cannot other than clearly it would show that a more partisan plan could have been drawn quite easily, assuming this plan is partisan, which I really can't claim one way or the other given my limited role.

Q. How does being able to draw an 8-0 Plan shed any light on the claims at issue in this case?

A. I don't know.

* * *

Q. Am I correct that your expert report contains no analysis of whether the 2011 congressional map in Maryland was drawn with a specific intent to impose a burden on a particular group of voters?

A. It does not. That was not my task.

Q. Then am I also correct that your expert report contains no analysis of whether the 2011 congressional map in Maryland was the product of partisan gerrymandering?

A. It does not.

Q. Isn't it true that your expert report contains no analysis of whether the individuals that drew the

2011 Maryland congressional map took into [29] account data reflecting Maryland citizens' voting history?

A. I do not know that.

Q. And you didn't perform that sort of analysis in your report; is that correct?

A. The adopted plan?

Q. Yes.

A. No, I did not.

Q. And for the adopted plan—

A. Well, I mean, I did in a sense because I started with the adopted plan as I was developing the 8-0 Plan. I did have information about the democratic vote in 2008 election by congressional district. That was the extent of.

Q. Well, do you know whether the individuals at—do you have any opinion as to whether the individuals that drafted the 2011 adopted congressional plan took into account data reflecting voters' voting history?

A. I do not know.

Q. Do you have any opinion on whether the individuals that drew the 2011 adopted congressional [30] map took into account data reflecting party affiliation?

A. I do not know.

Q. Am I correct that your expert report contains no analysis of whether the Maryland legislature's mapmakers were motivated by a specific intent to burden supporters with a particular political party?

A. It does not. I was not asked to do that.

Q. Isn't it true that your expert report contains no analysis of vote dilution?

A. It does not, although I was careful to maintain two majority African-American congressional districts as I drew the 8-0 Plan.

Q. You express no opinions in your report regarding vote dilution with respect to the adopted congressional map, correct?

A. I do not.

Q. Did you do any analysis to determine whether Maryland's 2011 congressional map was consistent with historical congressional district lines? [31]

A. Not within the context of my report, no.

Q. When you say not within the context of your report, you're referencing the fact that outside the context of your report you looked at the 1972 map?

A. I looked at the 1972 map and I also looked at—it was a difficult map to really see on the website of the State, but it also showed the 1990 map, and I think in both instances Congressional District Six did not extend all the way across the state.

Q. Do you know in those two instances how far Congressional District Six extended into Montgomery County?

A. In the '70s I don't think it extended into—I don't think it extended into Montgomery County, but it did extend into Howard County.

Q. How about in the 1990 map?

A. I don't recall. I don't believe it did, though.

Q. As someone who is experienced consulting in redistricting litigation and consulting for [32] localities in redistricting matters, how often do you take into account the way the district, congressional district lines looked in the 1790s?

A. 1790s?

Q. Yes.

A. I—well, I don't ever recall looking at a plan going all the way back to the 1790s.

Q. Okay. In your professional experience how often do you look at a plan going back to the 1800s?

A. Probably never. I primarily rely on plans that go back no more than 30 years to the '70s or '80s.

Q. Okay. How often—

A. I think I did look at plans—I'm involved in a lawsuit working on behalf of the Navajo Nation in Utah, and in that instance I think I did look at districts that go back to the 1950s for the county board of commissioners.

Q. Okay. Outside of this one instance where you were consulting for the Navajo Nation, can you think of any other instance where you have gone back to look at maps as they existed before the One [33] Person, One Vote standard was adopted by the Supreme Court?

A. May have in Mississippi, for example—

Q. Okay.

A. —in some localities there, but it would be rare to go that far back in time.

Q. Why would it be rare?

A. Because it was a long time ago.

Q. Okay. And in congressional redistricting cases can you think of any instance where you've ever looked back at maps, congressional maps, as they existed before the One Person, One Vote standard as part of your work?

A. Well, first, let me stress that I focus primarily on local redistricting.

Q. Sure.

A. I've only been involved in maybe three congressional redistricting cases in my life. One of those was in the 2000s in Mississippi, and I don't think I went back past 1990 congressional plan there.

The other was just a brief declaration I filed in Miller v. Johnson in Georgia in the 1990s. And I [34] was also involved in Fletcher v. Lamone here in Maryland in 2011. And in that case I also played a very limited role, so I did not look at historical congressional districts.

Q. Okay. And so this is only your fourth congressional redistricting case that you've been involved with; is that correct?

A. In terms of litigation, yes.

Q. Okay. In the course of your work in this case did you look at—did you consider any data regarding educational attainment in Maryland?

A. In this case I did not. I routinely do it in all Section 2 cases. I look at a wide range of data reflecting socioeconomic status for a given jurisdiction. So I have that information available. I mean, I can crank it out real fast. But in this case my role was so limited that I just didn't go to that extent.

Q. So you routinely, as part of your consulting work, do access sort of socioeconomic data; is that correct?

A. Yes. I have all that information [35] downloaded from the Census Bureau of American Community Survey site for the 2015 one-year survey and the 2011 to 2015 five-year survey. And I can batch produce 50-page reports showing socioeconomic status comparing African Americans, whites and Latinos, but, of course, those charts are produced

primarily for the Section 2 lawsuits I'm involved in.

Q. So you have that socioeconomic data at your fingertips, it sounds like; is that right?

A. Basically, yeah.

Q. And you could have looked at that socioeconomic data in this case, but you did not.

A. Well, again, I had a very limited task to perform, and that was to demonstrate that I could create eight congressional districts that had a partisan democratic majority.

Q. Do you believe that that socioeconomic data is in any way relevant or has any bearing on your work in this case?

A. It's background information. I'm from Virginia, so Maryland is not far in territory, so I've been around the state a little bit. So, I mean, [36] I know—I know a little bit without even going to the data.

Q. In drafting your proposed 8-0 congressional map, did you do any analysis of existing communities of interest?

A. I did not—I did not perform an analysis of existing communities of interest, no, in a formal framework.

Q. Sure. Did you do any analysis in an informal framework of existing communities of analysis—existing communities of interest in your 8-0 Map?

A. Well, I guess, informally I noticed that in the adopted plan, as you know, in the 2000s adopted plan, District One extended into Annapolis and Anne Arundel County, crossing the 301 bridge. And in the 2011 plan that part of District One was removed.

So I was aware that, you know, Annapolis is really different from the Eastern Shore in some ways, even though they both border on the Chesapeake. So I understood perhaps the rationale as to why Annapolis [37] was removed from District One.

Q. Beyond this rationale that you've described for removing Annapolis from the First Congressional District in the adopted plan, did you do any other informal analysis of communities of interest when drafting your 8-0 Plan?

A. No, because it truly is a draft. It's not intended to be set in stone, and I suppose I could be requested to produce another one. These plans are not hard to do, and I could look further into existing communities of interest, if need be.

Q. Have you been asked to do that?

A. No, I have not.

Q. Did you do any formal Voting Rights Act analysis like you would do in Section 2 litigation regarding the 8-0 Map that you drafted?

A. Well, I'm a—I'm a Gingles 1 person. I don't—I'm not a political scientist, so I typically—I never actually try to determine what is an effective district and what is not an effective district, and how a minority group might perform given certain percentages. [38]

But I am cognizant of the fact that there have been for the past 30 years almost two majority black districts in Maryland, and I'm also aware that there's a significant Latino population in Maryland.

So it's clear to me that, given that reality, there would be no need to have districts that are much higher than around 50% black voting age majority,

if that high. Given yesterday's Supreme Court ruling in North Carolina, I suspect that in Maryland one could reduce the black VAT in those districts into the 40s and still have districts that perform.

Q. Did you perform any analysis—actually let me back up. When drafting your 8-0 Map, did you consider any measurement of compactness?

A. I did look at compactness scores for that plan.

Q. Where are those scores reported in your expert declaration?

A. They are not reported.

Q. Why did you not include them in your expert declaration? [39]

A. I wasn't really asked to.

Q. Okay.

A. But my assessment upon—upon running the compactness scores for the 8-0 Plan is that they are within the norm of congressional districts nationwide.

Q. Can you tell me what the—what compactness measurement you used?

A. I looked at Reock and Polsby-Popper scores.

Q. And what were—can you tell me what those scores were?

A. Don't have them memorized.

Q. Okay. So as you sit here today you can't actually tell me what the exact compactness scores were?

A. No, but all the plans scored—all the districts scored above .20 Reock, and I think maybe the lowest Polsby-Popper score was somewhere in the low teens for maybe District Two or Three. I don't recall. It's been a month.

Q. And for the ease of the court reporter, [40] could you spell the two measurements that you're using?

A. R-E-O-C-K, Reock, in the USA, and Polsby-Popper, P-O-L-S-B-Y dash P-O-P-P-E-R.

Q. Okay. Thank you. All right. You have your declaration in front of you still? Okay.

I'm on the first page. There's a—at the very top there's a reference to O. John Benisek, and he's a plaintiff; is that right?

A. Surely he is.

Q. Okay. How many other plaintiffs are there in this case?

A. I do not know.

Q. Can you name any other plaintiffs in this case?

A. I cannot name any other plaintiffs.

That's not that unusual, though.

Q. Okay. All right. Let's turn to page—I'm sorry—Section 5 of your report, which is on page 5 as well. In that section you state that populations shifted from Congressional District Six to Congressional District One under the adopted 2011 [41] plan; is that right?

A. Right.

Q. Did you do any analysis of why that population shift from Congressional District Six to Congressional District One occurred?

A. No. I just know it happened.

Q. So you simply compared the 2001 map with the 2011 map, and you were able to determine that part of Congressional District Six moved to Congressional District One; is that right?

A. That is correct. Again, this was a request that I received from the defendants' attorneys. It was not in the initial request from Alan Lichtman.

Q. Oh, okay. Anyone can go on the website—on the Maryland Department of Planning website—and compare the 2001 and 2011 maps, correct?

A. You can, at least from a hundred thousand feet. You can't take things down to the block or precinct level, I don't think, although it is a very good website in terms of the maps that they produce.

Q. Okay. So anyone can look at those two [42] maps and determine that part of Congressional District Six moved to Congressional District One, correct?

A. I think so. I believe there's sufficient detail.

Q. Okay. I mean, there's no—there's no real scientific analysis to it. You're just looking at the two maps; is that right?

A. Well, you're looking at the two maps and then looking at the underlying population data to calculate the number of people who were moved from one place to the other.

Q. Sure. But you don't even need to look at underlying population data to come to the conclusion that people—that there were people who were in Congressional District Six that were moved to Congressional District One, correct?

A. That's correct.

Q. And you don't need any sort of scientific background to come to that conclusion.

A. No. You have to understand how to use GIS software, presumably, to arrive at a calculated [43] bottom line total.

Q. Sure.

A. But, yes, you can see that people in Cecil and Harford Counties that were previously in District Six are no longer in District Six.

Q. So let's look at—

A. Previously meaning in the 2000 plan.

Q. Sure. Let's look at paragraph 18 of your report, which is on the next page.

In paragraph 18 you state—and I'm on the second sentence—"to compensate for this population loss, 106,562 persons in Harford, Baltimore and Carroll Counties were shifted from CD 6 under the 2002 plan into CD 1 under the 2011 plan."

Did I read that correctly?

A. Right. And I think I just misspoke when I said Cecil County. I think it was in—

Q. Carroll?

A. It was in District One, in both the 2011 and the 2002 plan. It was Carroll County that was shifted out.

Q. Okay. Understood. Thank you for the [44] clarification.

Did you do any analysis to determine whether the boundaries of Congressional District Six were in fact redrawn due to changes made to Congressional District One?

A. I'm sorry. What was the question?

Q. Did you do any analysis to determine whether the changes made to Congressional District One necessarily meant that there had to be changes to Congressional District Six?

A. Well, I mean, it stands to reason that, if you remove 106,000 people from Congressional District

Six, additional population had to be picked up from somewhere.

Q. Did you do any analysis as to whether it was necessary to move over 300,000 people out of Congressional District Six as it existed in the 2001 plan?

A. No.

Q. Did you look at any documents to do any analysis of why the boundaries of Congressional District Six were actually redrawn? [45]

A. No. As I've stated repeatedly, I did not see any documents that had been produced for this case other than the two expert reply responses from last—that I saw from yesterday that were filed yesterday.

Q. So you can't say, as you sit here today, with any degree of scientific certainty why the boundaries of the Sixth Congressional District were actually redrawn the way they were in the 2011 adopted plan.

A. No. I don't—again, it would have—to have that information, of course, would mean going beyond the experts' report and probably doing as you suggested earlier today, going back and looking at the contemporaneous accounts from declarations and depositions, which some of the legislators and others may have filed in this case, or just public statements from—from public hearings at that time.

Q. Sure.

A. That would have gone way beyond the scope of my agreed task for this case, though.

Q. I understand. [46]

MR. MEDLOCK: Why don't we take a quick five-minute break.

VIDEO SPECIALIST: Going off the record at 10:22.

(Proceedings recessed.)

VIDEO SPECIALIST: Back on the record at 10:24.

BY MR. MEDLOCK:

Q. All right. I'd like to move to page 2 of your report, and I'm looking at paragraph 6 under "Purpose of Declaration." Can you let me know when you get there?

A. Page 2.

Q. Yep.

A. Oh, here we are.

Q. All right. So in paragraph 6 you state that the defendants' attorneys asked you to, quote, develop a hypothetical congressional map for Maryland so that all eight districts have a democratic majority without changing current CD 6 using information that was available in 2011.

Did I read that correctly? [47]

A. Yes. That was my summary of the request, right. I'm not quoting them directly.

Q. Sure. Sure. Understood. In performing that analysis, you were able to obtain voting history information from publicly available sources, correct?

A. That's right, but, as part of my initial discussion with Alan Lichtman—my memory has been jogged a little bit—and I mentioned to him that I had been involved in the Fletcher v. Lamone case and that I already had a database with the results of the 2008 presidential primary, and his assessment was that would be sufficient for the task that he and the attorneys were requesting that I perform.

Q. Okay. And where did you get the data from the 2008—did you say presidential primary or president general election?

A. Presidential general election.

Q. Okay. Where did you get the data regarding the 2008 presidential general election for that database?

A. It's the same dataset I used in Fletcher v. Lamone, and it came from the Harvard Election Data [48] Archive.

Q. Okay.

A. I am aware after reading Professor McDonald's report that there may be some errors in that database. I don't know that to be a fact, though, so I'll have to check on that.

Q. So have you done—

A. Not his report, his reply report I received last night.

Q. Sure. Since receiving that reply report, have you done any analysis to determine whether there are in fact errors regarding how certain precincts in Montgomery County are calculated?

A. I have not looked at the data.

Q. Do you plan to do so?

A. I may, if the attorneys want me to.

Q. Okay. So sitting here today you just don't know one way or the other whether the Harvard dataset is sufficiently correct regarding Montgomery County to support your opinions?

A. I'm going to make the bold assessment that it is sufficiently correct. If there are errors, [49] they may or may not have affected the figures prepared in my report, but I'm sure I could make adjustments to still have 8-0 for a hypothetical plan.

Q. Do you know how, if at all, those errors in the Harvard data would affect your current 8-0 Map?

A. No, because I don't know which precincts were involved. I mean, it could be that those errors, if they exist, actually result in the democratic percentage in Districts Two or—what is it—Eight—some of the other—some of the other congressional districts in Montgomery County. It could turn out that it reduces the democratic percentage. I don't know. I have to check it out.

Q. So you just simply don't know one way or the other as you sit here today how the error in the Harvard data affects any of your analysis.

A. I do not, although I have strong suspicion that it wouldn't change things very much or Dr. McDonald would have made a bigger issue of it.

Q. Okay. So besides the amount of rhetoric [50] that Dr. McDonald addresses to this point, you don't have any sense of the size of any error, if any, that could be caused by using the Harvard data.

A. Correct, but I still stand by my belief that, even if it's fairly significant, I could probably still get an 8-0 Plan in Maryland.

Q. So you had—I'd like to take you back for a second. You said you had 2008 presidential data that you had in a database; is that correct?

A. Yes. It's just downloaded off of the Internet from the Harvard Election Data Archive that is precinct-level data, at least in the case of Maryland for the 2008 presidential election. Some of the other state datasets may have registered voters or other political contests, so it varies from state to state.

Q. If you wanted to, could you have gotten additional voter—voter history information regarding other political contests in Maryland and put that into your database?

A. If I wanted to, I assume that I could have obtained general information, other information [51] perhaps from the State of Maryland.

Q. Okay. How about in the Harvard dataset? Does the Harvard dataset contain data regarding elections other than presidential elections?

A. You know, I don't recall. It is possible that there is information in there about congressional races in 2008, but I don't know for a fact. I've looked—I've used the Harvard datasets in other states, and they really vary, but Dr. Lichtman agreed that the presidential election of '08 would be the best proxy, so that's the one I used—the best partisan proxy.

Q. Why did you believe that the presidential election of '08 was the best partisan proxy?

A. Because this is an attempt to show what might have been drawn in 2011, and that would have been very current data—

Q. Okay.

A. —as opposed to the 2012 election, which had not yet taken place.

Q. Can you use past election data to make inferences about how future elections will turn out [52] in particular congressional districts?

A. Well, that's certainly the procedure that is often used. It may not always turn out to be the case. I think in this instance the presidential contest of '08 tracked the 2012 election results pretty closely.

Q. Okay. So using the presidential election data of '08 was—in this case—was actually a very good predictor of how congressional elections would turn out in the congressional districts that you drew; is that right?

A. I think—just eyeballing—not—not the congressional districts that I drew necessarily.

Q. Okay.

A. But looking at the presidential contests of 2008 and comparing that to how Democrats fared in the 2012 congressional contests, it's pretty close. I mean, it's obviously not going to be exact, but the result was that you had seven Democrats elected, and the percentages by which they were elected, you know, reasonably tracked the 2008 presidential contest.

Q. Okay. So the next step in your analysis, [53] as I understand your report, is you took this data regarding the 2008 presidential election from your dataset and then you input it into Maptitude; is that correct?

A. Right.

Q. And you used Maptitude for redistricting, is that the name of the software?

A. Yes.

Q. What version did you use?

A. I used the version that was released in the 2000s. I have the 2016 vanilla Maptitude that's not got the redistricting component, but rather than forking out $2,000 a year, I still use the older version for my redistricting work, and then for some components of my redistricting work, like geocoding or other kinds of analysis, I use the 2016 Maptitude.

Q. Okay. So you go back and forth between the two?

A. Yeah, constantly.

Q. Okay. So using Maptitude and the publicly available 2008 presidential election data, you were able to redraw the boundaries of Maryland's [54] con-

gressional districts in such a way that you would get an 8-0 Map, correct?

A. Right. While at the same time maintaining two majority black congressional districts, which, arguably, may not need to be majority black to perform, and if didn't need to be majority black to perform, one could, of course, create stronger democratic partisan districts, I believe.

I also, of course, as part and parcel of this little task, protected all incumbents. Had I not protected all incumbents, it would be easier to maintain a stronger Democratic majority in those same districts. Because three of the incumbents at the time lived within a three-mile radius of one another, and Representative Cummings was only about six miles down the road. So basically you had four—four incumbents living in a straight line making it a little more problematic to draw the districts.

Q. When you say—

A. If you're going to protect incumbents.

Q. Sure. Sorry. I didn't mean to step on you there. [55] When you say you protected all incumbents, were you protecting all Democratic incumbents or all incumbents generally in your answer?

A. All of them. I mean, there's no incumbent that's paired with another.

Q. Okay. How were you protecting Republican incumbent Roscoe Bartlett in your 8-0 Map?

A. Well, he's in a Democratic majority district, but certainly he could run in that district and not—not impossible to think that he could have prevailed. Perhaps if he changed his policies, I don't know, but certainly didn't have to run against another

Republican or another Democrat. He would have been the incumbent in that district.

Q. I see.

A. And I didn't change District Six anyway. That was not my charge. Well, that was my charge not to change District Six, but to take the other seven districts and draw it.

Q. Right. So Congressional District One, Andy Harris's district, when you say you protected him as an incumbent, you didn't—what you mean by [56] that is you didn't pair him with another incumbent.

A. That's right.

Q. Okay. Do you know whether the individuals that were responsible for drawing Maryland's 2011 congressional map had a copy of Maptitude?

A. I do not know.

Q. Do you know whether the individuals that were responsible for drawing Maryland's 2011 congressional map had access to voter history data?

A. I don't know.

Q. Do you know whether they had access to party affiliation data?

A. I don't know. It would not surprise me if the answer to all three of those is yes, but I really don't know.

Q. Why wouldn't it surprise you?

A. Well, most legislatures have information available about voter history, as they're developing voting plans, and I'm sure well over half have copies of Maptitude.

Q. So—

A. But I don't know, again, I don't know the [57] facts in this instance.

Q. Sure. Let's move to actually looking at your map. So I am on the first page of your map that looks like this. It says 8-0 Plan 4-17-17 draft. It should be right after one of the blue dividers.

A. Got it.

Q. Are you with me?

A. Right.

Q. Okay. So just looking at your map, the Congressional District Five, that congressional district crosses the Chesapeake Bay; is that right?

A. It does. The 301 bridge and crosses the Chesapeake Bay to include part of Anne Arundel, Annapolis, and also all of Calvert and part of Prince George's.

Q. Okay. What are the major military installations in Maryland?

A. That I cannot tell you.

Q. Could you point to where they would be on this map?

A. No, I cannot. [58]

Q. Did you ensure whether—did you ensure that all of the major military installations in Maryland are in Congressional District Two?

A. I did not. And I assume they are not.

(Exhibit 158 marked for identification.)

Q. All right, sir. So I'll represent to you that Exhibit 158 is a corrected version of your Population Summary Report that appeared in your original report that was provided to us yesterday.

A. That is correct.

Q. Okay. Why did you amend this Population Summary Report?

A. Oh, I had a typo in the bottom line percentages. I had indicated that the unadjusted percent non-Hispanic whites statewide was, I think,42.8%, and actually that's the minority population percentage. So I corrected that typo to reflect the actual unadjusted non-Hispanic white 18-plus population, which is 57.22.

Q. Was that a typo or a miscalculation?

A. It was not really a miscalculation. I [59] think it was maybe a copy-and-paste error is what it was.

Q. Okay.

A. I have, you know, I had other columns in there, one of which would have been percent minority, and I think I just accidentally copied that into this, this spreadsheet.

Q. Okay. Do you know—

A. I do want to make one other correction, though.

Q. Sure.

A. I found the percent unadjusted non-Hispanic 18-plus, it indicates—it should indicate that at the top of the—at the rows at the top, not just non-Hispanic white, but 18-plus non-Hispanic white.

Q. I see. So if I'm looking at the columns on this report and I'm working from the right to the left, that's the second column from the right.

A. Right.

Q. It currently says, percentage unadjusted NH, meaning non-Hispanic white. That should actually [60] read percentage unadjusted 18-plus non-Hispanic white.

A. Exactly.

Q. Is that correct?

A. Right, to be consistent with two columns to the left, which also report 18-plus—or actually across the board they're like, what, five columns, I guess, that show voting age population.

Q. Was that another copy-and-paste error?

A. No. That might be a failure to type in 18-plus. It's possible that it has something to do with the width of the column and that somehow or another 18-plus got squeezed out of that column as it was printed. I'll have to check.

Q. Okay. Besides those two corrections that you've made, are there any other corrections that you see that need to be made to this Population Summary Report as you sit here today?

A. No.

Q. Okay. I'd like to focus on the deviation column for a second. Do you see that? It's the third from the left. [61]

A. Yes.

Q. Okay. What does deviation mean in this instance?

A. Well, it just means the number of persons over or above what would be population equality, which is zero, that is a requirement in congressional redistricting. And since this is just sort of a hypothetical draft plan, I did not zero out the districts, which would have taken a little while to do, and involved some precinct splits. So I just reported this to make the point. I could always zero them out, if need be.

Q. Why did you not decide to split precincts in your draft 8-0 Map?

A. Well, there are some split precincts because I started with Congressional District Six, and I

think there were some precinct splits there, but it's generally good practice not to split precincts, if you can, when you're drawing a state-level plan. Usually you end up having to split precincts to comply with One Person, One Vet, particularly if you're working with congressional [62] plans, which ultimately require it seems zero deviation. So you're guaranteed to have—if you have an eight congressional district plan, you're probably going to have 20 to 30 split precincts just to get everything to equal zero.

Q. Okay. Let me unpack a little bit of your answer there. You said under One Person, One Vote, when you're working with congressional plans, that ultimately requires you to get as close to zero as possible, correct?

A. It does. Although there was a congressional plan adopted in West Virginia, and that case was litigated to the Supreme Court, I believe sometime in 2011, and I think the Supreme Court allowed West Virginia to have a deviation that was beyond zero percent because the issue related to splitting counties, and for whatever reason it was deemed okay for West Virginia to have a deviation that went over zero.

Q. Do you know whether Maryland has [63] historically attempted to get as close to arithmetic equality between its congressional districts as possible?

A. Probably in 2000, but I think prior to that time most likely no, particularly for state legislative plans.

Q. How about congressional plans?

A. I don't know, but I would be surprised if they were to hit zero percent deviation prior to the 2000 round of redistricting.

Q. After the 2000 round of redistricting, do you know whether it was the policy of Maryland to achieve as close to zero percent deviation as possible?

A. I think that's probably the case.

Q. Okay. Let's look—

A. Because the existing plan is zero deviation across the board, except for maybe one district, because you can't always balance it out just perfectly.

Q. Okay. Let's look at the first two districts in the deviation column. Congressional [64] District One has a deviation of—a positive deviation of 900, correct?

A. Correct.

Q. And Congressional District Two has a negative deviation of 1,064, correct?

A. Correct.

Q. So the delta between those two, the difference between those two districts, is 1,964 people, correct?

A. That's correct.

Q. Okay.

(Exhibit 159 marked for identification.)

Q. So I've put in front of you what we've marked as Exhibit 159 to your deposition. It's a court filing in the Supreme Court of the United States titled "Brief in Opposition to Petition for Writ of Certiorari," correct?

A. Yes.

Q. Okay. And if you look at the counsel of record underneath that, that was filed by the Office of the Attorney General in April of 2015, correct? [65]

A. That's correct.

Q. And the case caption reads Shapiro vs. Mack. Do you see that?

A. I do.

Q. Do you know if Shapiro vs. Mack is in any way related to this case?

A. I don't know, though I do think I recall that someone named Shapiro had a lawsuit filed regarding redistricting at the state level or congressional level in Maryland. I don't know why I remember that, but I do.

Q. Okay.

A. But I don't know the specifics.

Q. Okay.

A. I don't even know if it was for the congressional plan or for the state legislature.

Q. Okay. Got it. So I want to move to page 5 of the brief, and the page numbers are at the top. Are you with me on page 5?

A. I am.

Q. Okay. I'd like to direct your attention—do you see the sentence that begins with, "as [66] indicated by the district population"? It's about five lines down—actually six.

A. On page 5?

Q. Page 5.

A. I see as potential remedies ... but I don't see "as indicated." Where is as indicated? I see "as many."

MR. KIMBERLY: Line 6 from the top.

Q. Line 6 from the top. Do you see Resp—

A. Oh, I'm sorry, there it is. "As indicated," right.

Q. All right. That section reads, quote, "as indicated by the district population table appearing to the left of each proposed alternative map, the plans petitioners offered had districts deviating from the ideal equal population by as many as 760 persons,"

and then there's a citation, "and population variances between districts of as many as 1,103 persons," there's another citation. "Unlike Maryland's enacted plan, which achieved the maximum equality of district population mathematically possible, none of the district plans proposed by the [67] petitioners purported to come close to the, quote, precise mathematical equality that this Court has demanded of Congressional districts."

Did I read that section correctly?

A. I believe so.

Q. So in this brief the Office of the Attorney General criticized a proposed map that had deviations of as many as 760 persons and population variances between districts as many as 1,103 persons, correct?

A. That appears to be the case.

Q. Okay. In your proposed 8-0 Plan the largest deviation, as we already discussed, is 1,964 persons, correct?

A. Well, this is all apples and oranges.
This is a draft plan just to make a point. And, you know, if you want, when I get back to Virginia, I'll sit down and zero it out and send it to you. It might take a couple of hours, split a few more precincts, but it's not going to change the results at all.

Q. Okay. So do you believe that the [68] criticism contained on page 5 of this brief is valid when applied to your analysis?

A. No, it's not. It's probably valid when applied to work that was done in the Shapiro case, because, presumably, the plan that was presented in the Shapiro case was a plan that would have been proffered as a possible remedy. And what I am

proposing here is not being proffered as a possible remedy; it's being shown as a hypothetical plan and nothing more, which is why I didn't take the time to zero it out, but I could easily do so and it wouldn't change anything.

Q. In your 8-0 Map in its current form could it be adopted by the Maryland legislature?

A. After a couple hours' work when I get back to Virginia, yes.

Q. So it would need to be—

A. Arguably, it would be, yes, because it complies in every other way, setting aside your issue at hand, which is the First Amendment theory, as well as potential partisan gerrymandering, if you prevail on that claim, but clearly it would be something that [69] the State of Maryland could adopt, but I would need to zero it out.

Q. I just want to be clear about the answer to my question. Is it your testimony that this 8-0 Map that we're looking at in your expert submission could be adopted by the Maryland legislature without any further revisions?

A. It could be adopted, but presumably someone would challenge it on One Person, One Vote—

on a One Person, One Vote issue. But my point is simply that I did not produce this to demonstrate a plan that the State of Maryland would be adopting.

It's simply a hypothetical draft to demonstrate that one could have drawn an 8-0 Plan back in 2011.

Democratic Caucus Meeting Minutes

DEMOCRATIC CAUCUS MEETING
MONDAY, OCTOBER 3 AT 7:00P.M.
MAJORITY CAUCUS ROOM IN JAMES
SENATE OFFICE BUILDING

OVERVIEW: The purpose of the meeting is to give Jeanne Hitchcock (in her role as Chair of the Governor's Redistricting Advisory Committee) and Joe Bryce an opportunity to present the Governor's congressional map to the members of your caucus *before* the map is released tomorrow. You will make introductory remarks, but you should allow Secretary Hitchcock to present and defend the map. Dan Friedman will make brief remarks explaining why we need to pass the map as emergency legislation.

TOPICS TO ADDRESS:

- *Thank your colleagues for attending, especially on short notice*. The letter that circulated within the caucus during session raised an issue of when and how meetings are called. Acknowledge that this meeting was called on short notice, and thank your colleagues for their patience. Emphasize that you felt it was important to bring this group together before the Governor releases his map publicly, because the Senate deserves an opportunity to be briefed about this issue instead of reading about it in the newspaper.
- *Speak briefly about the GRAC process*. While you are intimately familiar with the process, many of your colleagues are not. It's worth reminding them that the Governor's Redistricting Advisory Committee included five members, and held twelve meetings across the state at which it received public testimony from hundreds of

Marylanders who are watching this process. One of the challenges that we face in creating a map is balancing the agendas of our members of Congress against the expressed will of the people who testified during the GRAC process.

- *Specifically recognize Secretary Hitchcock for her leadership of GRAC*. Secretary Hitchcock took the public hearing process very seriously. She sat and listened through testimony—both polite and not so polite. It's not likely that she's going to spend any time in Harford County again anytime soon, after sitting through that hearing. In addition, she worked closely with the members of our congressional delegation and with many of your colleagues, including the Black Caucus, to make sure their concerns were heard. Secretary Hitchcock deserves our thanks for her work—and our support for her work product.
- *Speak briefly to the fundamental challenges of the map*. The Governor's map is *not* pretty, primarily because several Congressmen live in close proximity to each other and all of the Congressmen fought to keep what they currently represent. For example, Congressman Ruppersberger has to have Aberdeen Proving Ground and Fort Meade because he serves on the Intelligence Committee. Congressman Sarbanes has to have Pikesville and Annapolis, because those communities are important parts of his district. In other words, no one in this room would have drawn the map the way that it is drawn.
- *Acknowledge that the map does some good things*. Even though the map isn't pretty, it accomplishes a few important goals. Namely:

- It creates an opportunity for Montgomery County to control two congressional districts, an opportunity for Prince George's County to control two congressional districts, and an opportunity for the Baltimore region to preserve its existing representatives.
- It protects the interests of minority communities, preserving the two majority-minority districts and preserving a large African-American voting bloc in the 5th congressional district.
- It preserves all six incumbent Democrats in "safe" districts. Not one of our incumbents will be in a district with less than 58% Democratic performance. By way of comparison, 9 Democratic Senators represent districts where Barack Obama received less than 58% of the vote and 10 Democratic Senators represent districts where Martin O'Malley received less than 58% of the vote.
- It gives Democrats a real opportunity to pick up a seventh seat in the delegation by targeting Roscoe Bartlett. In the face of Republican gains in redistricting in other states around the nation, we have a serious obligation to create this opportunity.

➢ *Briefly discuss the process for special session*. We are expecting a brief special session, lasting two to three days. Here is how it is likely to work:

- On Monday, the Senate will convene in the morning. We will need to adopt a rule change in the morning to create a Senate

Committee on Redistricting, which will have jurisdiction over the bills.

- On Monday afternoon, the Senate and House Committees will hold a public hearing on the maps.
- On Monday evening, at least one chamber will likely be in session in order to begin moving the map. It will not be a late night, but everyone should be prepared to be in Annapolis on Monday evening.
- Ideally, we will be able to wrap up the maps during the day (or perhaps the early evening) the following day.

➢ *Warn of the challenges of passing the map as emergency legislation*. We *have* to pass all maps as emergency legislation, primarily so that they take effect in time for the primary—but secondarily in order to avoid them being petitioned to referendum. This is no small task—we need twenty-nine votes to pass a bill, and we are not going to receive a single Republican vote. It is therefore incumbent upon everyone in this room to come together around a map.

After your remarks, give the floor to Jeanne Hitchcock and Joe Bryce. Again, let them do the heavy lifting on this map—the more you interject, the more it will appear less like the Governor's map and more like your map.

THE WITNESS: So I would say that I think it was common knowledge that it was the goal to make it a more competitive district that a Democrat could prevail in, but I don't—I can't—I wouldn't characterize it necessarily as a definitive make it seven to one versus six to two.

BY MR. MEDLOCK:

Q. Did you ever hear any of your colleagues say that one of the goals of the proposed congressional map was to change the composition of the Maryland congressional delegation from six Democrats and two Republicans to seven Democrats and one Republican?

A. My recollection was that it was to make one of the other—make the [24] Sixth Congressional District more competitive.

Q. When you say "more competitive," how do you define the phrase "more competitive"?

A. More competitive that a Republican or a Democrat could prevail in.

Q. Isn't it true that one of the purposes of making the map was to actually make the Sixth Congressional District have 53 percent Democratic performance?

A. Having reviewed the documents again, I recall that. My recollection is that, until after the election, the result could have been that a Republican could have prevailed in it, and I think that's been evidenced by subsequent elections after the 2012 election where a Republican almost took the seat back.

Q. I see. So can you name me a single election in the Sixth Congressional District since redistricting

where a Republican actually won the Sixth Congressional District seat?

A. That has not happened to date. There have been 2012, 2014 and 2016 elections. [25]

I know that in the 2014 election, from my recollection, the candidate nearly defeated the then incumbent and current incumbent Democratic officeholder for that district.

Q. In the end, that candidate, Dan Bongino, lost the election, correct?

A. That's right, it was Dan Bongino.

Q. He lost the election?

A. He did lose the election.

Q. So the answer to my question is that there never has been a Republican who's won that seat since redistricting; is that right?

A. That's my understanding.

Q. Okay. I just want to make sure I get a clear answer to this question:

One of the purposes behind the 2011 congressional map was to make the Sixth Congressional District have 53 percent Democratic performance, correct?

MS. RICE: Asked and answered.

THE WITNESS: Okay, and now I answer. I'm getting the hang of this. [26]

The result of the redistricting was a district that was 53 percent Democratic performance.

BY MR. MEDLOCK:

Q. And that was one of the purposes, not just the result? That was one of the purposes of the redistricting?

MS. RICE: Objection, asked and answered.

MR. MEDLOCK: It hasn't been answered yet. Please answer.

THE WITNESS: So one of the purposes, because there were multiple parties involved, you know, again, I don't—it's hard for me to answer what the GRAC's thinking was or what other legislators' votes were, so it's hard.

I'm not sure how to answer that, because when you say "one of the purposes," it wasn't as if something was enumerated like these are the four reasons why you should vote for this, and this is one of them. I don't recall that. [27]

BY MR. MEDLOCK:

Q. Well, I'm not asking if it was written down in stone. I'm just asking, in your mind, was that one of the purposes, to make the Sixth Congressional District have 53 percent Democratic performance?

MS. RICE: Objection, asked and answered.

THE WITNESS: Yes.

BY MR. MEDLOCK:

Q. Okay. To your knowledge, did any other members of the Maryland General Assembly believe that the purpose of the 2011 congressional map was to make the Sixth Congressional District have 53 percent Democratic performance?

A. You would have to ask other members. I don't recall.

Q. To your knowledge, did other members of the General Assembly vote for the proposed congressional map because they believed that it would result in 53 percent Democratic performance in the Sixth Congressional District? [28]

A. I can't speak to their motivations.

Q. Did you even ask them?

A. I don't recall.

Q. Do you have any documents in your possession that would shed any light on their motivations?

A. No, other than what I've provided.

Q. So you can't tell me one way or the other whether other members of the General Assembly intended to turn the Sixth Congressional District into a Democratic seat?

MS. RICE: Objection, asked and answered. You can answer.

THE WITNESS: I can't address what their motivations were. I don't know what their motivations were.

* * *

Q. You know your district well. Will you describe the 15th Legislative District as generally affluent?

A. I would say that there are areas of it that are affluent, more so in the southern part of the district, but I often consider kind of Germantown to be more of a Main Street—you know, there were different issues in that community than in, say, certain areas of Potomac, but then there was a lot of agricultural areas of the district, and those issues were very different, and the socioeconomic was very different there as well.

Q. What are the agricultural areas of the 15th Legislative District?

A. Probably about 50 to 60 percent of the district, as it was then, because it has been redrawn, as you know, comprised the Montgomery County Ag Reserve. You had horse farms, but you also had corn, soy, pumpkin. I mean, just a range [43] of agricultural interests, peaches.

Q. Would you describe the community as—

A. Is this relevant?

Q. It is.

A. I'm sorry.

Q. No, no, it is.

A. I think there were blueberries and strawberries, some had Christmas trees, you know, is my recollection of the district.

Q. Okay.

A. I've been to many of those farms, got some awards from the Farm Bureau.

Q. Do a large percentage of the residents in the 15th Legislative District commute into D.C.?

A. I wouldn't say a majority. I think, you know, the further north you go, they were probably like me, commuting to Rockville or Bethesda or Silver Spring as much as they were commuting into D.C., or, you know, staying local in their communities.

Q. How about the percentage of residents [44] in the 15th Legislative District who commuted north to Frederick County or Carroll County? What percentage would you say that is?

A. There were probably a fair amount actually that did what many would call the reverse commute.

Q. Is that smaller than the number who were doing the normal commute into D.C.?

A. I would say—and this is not based on the district.

Q. Uh-hmm.

A. I would say based on going north and south on 270 in the mornings and in the evenings that there were probably more people traveling south, but that may be inclusive of people coming from Pennsylvania, Washington County, Frederick County. I know people who worked in Rockville that lived in Pennsylvania.

So, you know, by evidence of Interstate 270, I would say more people were probably heading south while I was serving than were heading north. That may have changed. [45]

Q. Do you know what percentage of the your—

A. I don't.

Q. —community was using I-270?

A. What percentage was using that? No, I don't.

Q. Do you know if it was even a majority of your community that was using I-270?

A. I'd be speculating.

Q. Okay. So you can't tell me one way or the other?

A. No, I never did an analysis of that.

Q. Did you look at any sort of analysis of commuting patterns on I-270 before you voted in the special legislative session in 2011?

A. No.

Q. Did you see any sort of analysis of commuting patterns on I-270 given to any other member of the General Assembly before they voted on the proposed congressional map in 2011?

A. I don't think so. I don't recall that. [46]

Q. Would you doubt that that data was made available?

A. Yes, actually. I mean, I would doubt that that data was made available. I mean, I just don't recall looking at commuting patterns.

Q. Do you recall anybody speaking on the floor of the senate when you were getting ready to vote on the proposed congressional map about commuting patterns on I-270?

A. No. In fact, I don't recall any debate on the senate floor about it.

Email from Brian Romick

Subject: Re: (No subject)

From: Brian Romick <brianromick@gmail.com>

Date: 8/31/2011 7:33 PM

To: Mark Gersh <mg2590@aol.com>

Still not set yet, but I think it is likely that we do go to Annapolis on Friday, if you can make it work, Hoyer would appreciate it.

On Wed, Aug 31, 2011 at 2:10 PM, Mark Gersh <mg2590@aol.com> wrote:

Sent from my iPhone

On Aug 31, 2011, at 1:24 PM, Brian Romick <brianromick@gmail.com> wrote:

Don't know. Morning.

On 8/31/11, Mark Gersh <mg2590@aol.com> wrote:

Wha time

Sent from my iPhone

On Aug 31, 2011, at 12:57 PM, Brian Romick <brianromick@gmail.com> wrote:

If Hoyer goes to Annapolis to meet with the governor on Friday, are you around to come along?

On 8/31/11, mg2590@aol.com <mg2590@aol.com> wrote:

Not in the office. Will be there tomorrow.

-----Original Message------

From: Brian Romick; brianromick@gmail.com;

To: MG2590@aol.com; mg2590@aol.com;

Sent: Wed, Aug 31, 2011 9:22 am

Are you around today?

Email from Brian Romick

Subject:

From: Brian Rornick <brianrornick@gmail.com>

Date: 6/7/2011 10:42 AM

To: "MG2590@aol.com" <mg2590@aol.com>

Donna is telling us we have to do the 6th district. We would need to get it north of 50 to win it this time, right?

Q. Okay. So when you say that Mr. Baker got information related to congressional redistricting from the Office of the Governor, what sort of information are you referring to?

A. Well, look, I—I think that the information was what the Governor had in mind as far as the congressional redistricting map was.

Q. Uh-hmm.

A. I mean, he ultimately brings it down—

Q. Uh-hmm.

A. —and then ultimately the President and Senate and myself have to pass a map.

Q. Okay. Did Mr. Baker, to your knowledge, receive any draft congressional maps [35] from the Office of the Governor?

A. Not to my knowledge.

Q. Did Mr. Baker ever receive a final map from the Office of the Governor that was relayed to you?

A. It's hard for me to remember. I mean, obviously, we saw the map before we voted on it.

Q. Okay. To your knowledge, who in the Maryland state government actually drew the 2011 congressional map?

A. Can I have that question again?

Q. Sure. To your knowledge, who in the Maryland state government actually drew the 2011 congressional map for the State of Maryland?

A. Well, obviously, it came out of the Governor's office.

Q. Do you know that to be true?

A. Well, I don't know where else it would have come from.

* * *

Q. Do you remember who presented the final 2011 congressional map to you that the GRAC voted on?

A. No.

Q. Okay. Did you ever ask Mr. Baker who drew the 2011 congressional map?

A. No.

Q. Did you ever ask Mr. Weissman that question?

A. No.

Q. Did you ever ask anyone in the Office of the Governor that question?

A. No.

Q. Did you think it was relevant who drew the 2011 congressional map?

A. Certainly. I—I think that relevance was the—the Governor, and his, you [39] know, constitutional responsibility was to draw the map.

* * *

Q. Okay. Did you at all consider when voting on the proposed congressional map commuting patterns on I-270?

A. The what?

Q. Are—you know Interstate 270—

A. Uh-hmm.

Q. —which comes off of the Capital Beltway—

A. Yeah.

Q. —and goes up into Frederick County?

A. Right.

Q. Did you at all consider commuting patterns on I-270 when you voted on the proposed congressional map?

A. No. It never—never crossed my mind.

Q. Did you receive any data regarding propo—regarding commuting patterns on I-270 when you were considering the proposed congressional map?

A. No.

Q. Did you ever ask for any such data? [101]

A. No.

Q. Do you know whether anyone else on the GRAC had any such data?

A. No. I don't think anybody asked such question.

* * *

[141] * * *

Q. Do you know whether the population shifted at all in the former 6th Congressional District in Maryland?

A. You know, I'm not an expert in this, so I believe that, you know, there was growth in the Montgomery and Frederick suburbs—

Q. Uh-hmm.

A. —and basically the population stayed the same in Western Maryland counties of Garrett, Allegany and—and Washington County.

Q. What evidence do you have to support that?

A. I think the census numbers will bear that out.

* * *

[146] * * *

Q. Okay. Do you know whether it was necessary to move 30 percent of Marylanders from one congressional district to another to accomplish the GRAC's goals in congressional reapportionment?

MS. KATZ: Objection, vague.

THE WITNESS: Ask the—ask the question again.

BY MR. MEDLOCK:

Q. Do you know whether it was necessary to move 30 percent of Marylanders from one congressional district to another in order to achieve the GRAC's goals with respect to congressional redistricting?

MS. KATZ: Objection, lack of foundation.

THE WITNESS: No. You know, I—I don't know that it was necessary.

* * *

Q. Okay. Can you point me to any specific change that was made to the boundaries of the 6th Congressional District based on any input that you received during those twelve meetings around the state?

A. Our—our first meeting was in Frederick, and there was very little discussion about Congressional District 6.

Q. Uh-hmm.

A. Most of the discussion came from people from Frederick that believed they were underserved because of the loss of population and different demographics in Washington, Garrett, and Allegany Counties.

Q. Uh-hmm. Can you propo—can you point me to any change that was made to the [170] boundaries of the 6th Congressional District based on that testimony that you received at the Frederick meeting?

A. I just did, I think.

Q. Can you—well, what—how were the boundaries changed based on what you—the input you received at the Frederick meeting?

A. Well, I think that they wanted to see the growth in Frederick addressed.

Q. Uh-hmm. When you say they wanted to see the growth in Frederick addressed, how did the 6th Congressional District's new boundaries address the growth in Frederick?

A. This is an assumption on my part—

Q. Uh-hmm.

A. —but I think it—there was a commonality more or less of the growth coming out of Montgomery County and Frederick that, you know, reflected the population demographics in that area.

Q. Did you receive any data that showed you that there was similar growth in Frederick and [171] Montgomery Counties?

A. I saw the census numbers.

Q. Okay. Did the census numbers show you that there was similar growth in Frederick and Montgomery Counties?

A. To the best of my memory, there was growth in both areas, yes.

Q. Was it the—was it at a similar rate?

A. Not exactly sure how close the rate was, but they put, you know, on the census what each county's growth rate was, what's—what's the minority representation in those areas, and it goes through every minority—

Q. Uh-hmm.

A. —African-American, Asian, Hispanic, and it was—it was an interesting—

Q. Sure.

A. —observation.

Q. Did the GRAC consider that data when it evaluated the Governor's proposed map that he sent to the GRAC? [172]

MS. KATZ: Objection, speculation.

THE WITNESS: Look, the map that came down from the Governor's office I think reflected what he had got and received back from Ms. Hitchcock.

BY MR. MEDLOCK:

Q. Is that an assumption on your part, or is that—

A. That's an assumption.

Q. —something you know to be true?

A. That's an assumption.

Q. Did you ever ask anyone in the Governor's office whether the map that the Governor proposed to the GRAC took into account the rates of growth in Frederick and Montgomery Counties?

A. No, I did not, except, you know, through the numbers of the census.

Q. Did you confirm for yourself whether the Governor's map took into account the rates of growth in Frederick and Montgomery Counties?

Did—when you got the Governor's [173] map—

A. Right.

Q. —my question is, did you actually sit down with census data to evaluate the map?

A. No.

Q. Did you actually sit down with any demographic information to evaluate the Governor's map when you received it?

A. No.

Q. So when you say that the Governor's map reflected changes in the growth of Frederick and Montgomery Counties—

A. No.

Q. —you never did any independent analysis on your own to determine whether that was true?

A. No, but I had seen the numbers from the Maryland Department of Planning.

Email from Brian Romick

Subject:

From: Brian Rornick <brianrornick@gmail.com>

Date: 10/5/2011 12:25 PM

To: "MG2590@aol.com" <mg2590@aol.com>

This is a good read of how we got to where we ended up...

Josh Kurtz — Sources: Congressional delegation Dems eye Bartlett as redistricting target Rep. Steny Hoyer (D), the dean of the Maryland Congressional delegation and the No. 2 Democrat in the House of Representatives, is a wily legislative veteran, a master of the deal, and used to getting his way.

Rep. Donna Edwards (D), a fiery liberal with three years of Congressional experience under her belt, is known more for her political passion than her insider prowess.

But Edwards appears to be trumping Hoyer, according to multiple sources, when it comes to convincing their Democratic colleagues in the delegation which of the state's Republican-held seats to target in the upcoming redistricting process. And for now, at least, it looks as if a consensus is forming that they ought to go after Rep. Roscoe Bartlett (R) rather than Rep. Andy Harris (R).

Gov. Martin O'Malley (D) recently appointed a redistricting commission to help state lawmakers draft new Congressional and General Assembly maps. The governor and legislative leaders will have plenty of say over how the state's new boundaries will look.

But when it comes to Congressional lines, which will likely be adopted in a special legislative session that will convene in mid-October, the six Democrats in Maryland's House delegation will be accorded much sway.

And at the moment, sources say, despite Hoyer's plea to make the 1st District more Democratic to pave the way for a comeback for former Rep. Frank Kratovil (D), the delegation - with Edwards as one of the prime advocates - is close to signing off on a map that would instead give Democrats at least a S0-50 chance of capturing Bartlett's district in the near future.

In Annapolis and in Washington in recent months, it's become accepted wisdom that Maryland Democrats, under pressure from national party leaders looking for the two dozen seats they need to retake the House in 2012, will attempt to move the delegation to a 7-1 seat Democratic advantage, up from the current 6-2.

The question for Democrats has been whether to go after Bartlett in the Western Maryland-based 6th District, or whether to go after Harris' Eastern Shore-based 1st District seat.

Both districts are Republican strongholds as currently drawn. Both gave Barack Obama just 40 percent of the vote in the 2008 White House election as he was racking up 62 percent statewide. But with clever manipulating, Democrats figure they have a decent shot of stealing one of the Republican seats, with minimal risk to their incumbents.

Hoyer has urged his colleagues to facilitate a comeback for Kratovil, who held the 1st District seat before being ousted by Harris in 2010 - and who, by the way, is an old family friend of Hoyer's. The minority whip argued that Kratovil was a talented member who took some

tough votes for the Democrats - including supporting the cap-and-trade bill - and deserved a chance to represent a friendlier district.

But Edwards made the case, according to sources, that Kratovil's 2008 win was a fluke - and that even bringing the 1st District across the Bay Bridge into Prince George's County or Baltimore City might not provide enough Democrats for Kratovil to win. She also argued that that adding African-American voters into an Eastern Shore district was the wrong thing to do, especially with the city losing one-twentieth of its population over the past decade. And she pointed out that Kratovil's voting record may not have been sufficiently progressive - he voted against health care reform, for example - to captivate base Democratic voters.

Edwards has apparently been working with a redistricting expert as the delegation has been deliberating the redraw. She also is reportedly willing to take on deep Republican territory in Anne Arundel County (while keeping turf in Prince George's and Montgomery counties) to help the Democratic cause. It's easy to be magnanimous when you won your last election with 83 percent of the vote.

So for now, the fragile consensus in the delegation seems to be to draw a new 6th District that runs roughly from Rockville to Oakland, a driving distance of about 170 miles. The 1st District would then take in all of the Eastern Shore and extend into conservative Carroll County, all but guaranteeing Harris a safe seat for the next decade.

A new 6th District would present a golden opportunity for some Democrat - presumably state Senate Majority Leader Rob Garagiola - to run and win. Democratic leaders feel that if they set up a tough general election,

Bartlett, who will be 86 on Election Day 2012, and last faced a tough Democrat in 1992, will choose to retire. And they believe that Maryland Republican Chairman Alex Mooney, at this point the nominal frontrunner in any GDP primary to replace Bartlett, is beatable.

Even if they fall short in 2012, Democrats believe that with the cities of Frederick and Hagerstown trending slowly their way, a "Western Maryland" district anchored by Rockville and Gaithersburg is gettable sooner rather than later. And there's precedent for it: after all, the district that the Byrons - Goodloe and Beverly - represented from the early 1970's to the early 1990's was not dissimilar.

A decade ago, Democratic leaders hotly debated whether to split Montgomery County roughly the same way, to create opportunities for Mark Shriver, the protégé of then-Maryland House Speaker Casper Taylor (D), and Chris Van Hollen, the protégé of state Senate President Mike Miller (D).

Ultimately, then-Gov. Parris Glendening (D) chose instead to create a Democratic-leaning district based in Baltimore County, a reward for term-limited County Executive Dutch Ruppersberger (D). Shriver and Van Hollen had a dramatic showdown in the principal Montgomery County district - with Van Hollen pulling the upset.

If a new 6th District is created, it'll be interesting to see whether any name Democrats besides Garagiola take a shot at it - though no names have circulated at present. It'll also be very interesting to see how Bartlett, who just announced his intention to seek reelection last week, will react. As of March 31, he had $247,000 in his campaign account.

As for Kratovil, with the option of running for his old seat cut off, he'll have to decide whether he wants to run for something else in the near future - like attorney general or comptroller. There's also the possibility that he could be tapped to be Maryland's next U.S. Attorney, assuming there's a second Obama administration.

Nothing is written in stone until the legislature passes a bill and O'Malley has signed it. Even then, the Congressional map could be subject to a legal challenge.

But for now, at least, it looks as if Donna Edwards has outmaneuvered Steny Hoyer - and that Frank Kratovil, as a result, may be the odd man out.

Deposition of Dr. Allan Lichtman

Q. I understand that you state that there are alternative plausible explanations for the boundaries of the Congressional districts in the map.

But, do you offer an affirmative opinion about what the specific intent of the legislature and its map makers was in 2011?

A. No, that was not my task.

My task was to see whether or not your experts established what they claimed to [38] have established.

Q. And, you critique Professor McDonald's vote dilution analysis, correct?

A. Very much so.

Q. Do you offer an affirmative opinion about vote dilution, yourself?

A. I was not aware that vote dilution of minorities was an issue in this litigation.

I thought that was settled the Fletcher case.

And I don't see anything in either of your expert reports that refer to vote dilution of minorities. Rather, I see an inappropriate attempt by Dr. McDonald to shoehorn the vote dilution type of analysis we use in voting rights that I have used scores of times into this matter.

Q. Do you offer any affirmative opinion regarding whether the votes of Republican—whether the voting strength of Republican voters in the 6th Congressional District has been diluted? [39]

A. I don't use the term, diluted. But, obviously the 6th Congressional District became less Republican after the redistricting. No doubt. That is a fact.

Q. That is just obvious, right?

A. That is obvious. And I don't think your experts prove much more than that.

Q. Anyone who knows anything about Maryland politics knows that the, that it became less likely that a Republican would win in the 6th Congressional district after the 2011 redistricting; is that right?

A. Right. And that virtually automatically follows, as I pointed out, from something that has nothing to do with politics, and that is the decision not to cross the Chesapeake Bay.

Once you do that and you move out those 100 and some odd thousand voters from Anne Arundel, you've got to move in Carroll County, Baltimore County and Harford County. And the only way, the only way you can replace that, [40] given the geography of Maryland in CD 6 is Montgomery County.

Q. So, once a decision was made that the 1st Congressional District would not cross the Chesapeake Bay, in your opinion that made it clear that the, that Republican strength in the 6th Congressional District would be diluted?

A. I don't use the word, diluted—

Q. Sure.

A. —because that is from racial voting rights analysis, and I don't think it is appropriate here.

Q. Well, let me—

A. I will answer your question, though, but I don't want to take your terminology.

Yes, once you move, once you had to move Carroll, and parts of Baltimore and Harford, to replace the population loss from Anne Arundel, which followed from not crossing the Bay, and none of your experts deny that was an objective, the only other place to replace the population in CD 6, you can't

take it out of the voting rights [41] district, had to be Montgomery County.

And you don't need to be a political analyst. You just need to know anything about anything about Maryland politics, to know if you are putting voters in from Montgomery County, because you had to take out voters from Carroll County, that is going to make the district more Democratic.

Q. Yes, you don't need to know anything about anything about politics to know if I ad Montgomery County to the 6th Congressional District, and get rid of Carroll County, then I've made a more Democratic district; is that right?

A. Again you are losing loaded terminology that I'm not going to accept. Get rid of Carroll County implies something that I'm not willing to buy into.

Q. I'm not saying we are going to off it, okay?

A. But you are implying that they deliberately decided to get rid of Carroll County [42] to put in—that is not what I said at all.

Q. I'm not trying to put deliberate—anything deliberate into my question.

A. All right, then.

Q. What I'm trying to say is once Carroll County is removed from the 6th Congressional District, for whatever reason, and larger portions of Montgomery County are added, again for whatever reason, that makes the 6th Congressional District more favorable to a Democratic candidate, right?

A. That is obvious for anyone who knows anything about Maryland politics.

Q. Right. So, is not crossing the Chesapeake Bay a, the reason that larger portions of Montgomery

County were added to the 6th Congressional District?

A. It would make it essentially inevitable that larger portions of Montgomery County had to be added to the 6th district, because there is no other place for population from Carroll, Harford, and Baltimore County could [43] have been replaced there.

Q. I understand that, but—

A. And, as I said, and your experts don't address that. They are talking about all of these population changes, as if the 6th and 8th District existed in isolation, and had nothing to do with this decision not to cross the Chesapeake Bay, which isn't even mentioned, even in reply reports, after I spent a good deal of time in my report explaining its central implication here.

* * *

Q. Okay. Have, in your report, am I correct that you cite the Cook report PVI?

A. Yes. [130]

Q. What is PVI stand for?

A. It is, I'm trying to remember the exact acronym. Partisan voter index, I think.

Q. Okay.

A. And it is just a compilation of election returns to come up with the leaning of a district, either neutral, which would be 0. Plus-R, which would be leaning R. Plus-D, would be leaning D.

And it actually has a metric associated with it. So, it could be anywhere from +1 to, you know, a much, a high number.

Q. I assume +100 would be the max?

A. Well, you don't see that.

Q. Not in this country, at least?

A. No.

Q. The, do you find that the Cook PVI to be a reliable source of information regarding the partisan leanings of a Congressional district?

A. You know, insofar as you can figure that out. I think we have been through this colloquy before. [131]

Q. Sure.

A. These are predictions, assessments. And, you know, it is generally accurate, but it also can be wrong.

Q. Okay.

A. Like every other compilation. But, it is a—look, Cook is well respected. His PVI is well respected.

Q. Okay.

A. Nothing is perfect, but it is well respected, well regarded, and his judgments are well regarded.

Q. Do you personally, you know, put stock in the Cook PVI?

A. Sure. Again, you know, it is not the Holy Grail, nothing is. You know, because we are dealing with predictions of, you know, relatively small units of Congressional or state legislative districts.

But, as those things go, I think as I said, it is well respected.

Q. Okay. [132]

MR. MEDLOCK: Let's mark this next exhibit, please. It should be 181.

(Lichtman Exhibit Number 181 marked for identification.)

BY MR. MEDLOCK:

Q. All right, sir. I've put in front of you marked as Exhibit 181 to your deposition.

A. Okay.

Q. It is, if you look at the top of the first page, it is on the Cook Political Reports, for lack of a better word, header, is at the top. Correct?

A. Yes.

Q. And it is drafted by a gentleman by the name of David Wasserman, correct?

A. I don't know who he is, but yes.

Q. And it is dated October 11, 2012, right?

A. Right.

Q. Okay. So this would have, this is a report that came out after Maryland's Congressional redistricting in 2011. Correct? [133]

A. That is correct.

Q. Okay. I would like to direct you, if I may, to Page 8 of this report.

A. Okay.

Q. And, the top of that page is titled 25 Biggest Redistricting Swings Against the Incumbent Party. Do you see that?

A. I do.

Q. And then there is a ranking. There is a chart—well, let me start.

There is a chart below that, correct?

A. There is a chart? I don't see a chart.

Q. There is a table.

A. Yes, I see a table.

Q. Okay. And if you look at that table, on the most left-hand column, there is a rank column. Correct?

A. Correct.

Q. And that is ranked all of the way from 1 through 25, correct? [134]

A. Correct.

Q. Okay. And, then to the right of that, there is a column for district, correct?

A. Yes.

Q. Column for incumbent, right?

A. Yes.

Q. There is a column for PVI before, correct?

A. Yes.

Q. And there is a column for PVI after, correct? To the right of that, there is a column for PVI after?

A. Yes.

Q. And there is a column for swing, correct?

A. Yes.

Q. And then there is a column for current Cook rating?

A. Right.

Q. What is the Cook rating, in your experience?

A. The Cook rating is an attempt to [135] whether the districts are competitive or not. And there are three kinds of competitive districts. And there aren't a whole lot of them in the country. And we can discuss that, but I won't now.

Q. Okay.

A. Let me finish. And so those three kinds of competitive districts are a pure toss-up, lean Republican or Democrat, or likely Republican or Democrat.

And the noncompetitive districts, which are the majority, are called safe Democrat or safe Republican.

Q. Okay. Do you see there is a reference here to solid Republican, on the third line. Is that the same as safe Republican?

If you look at the CA 31, and you go all of the way over to the current Cook rating. It says solid Republican.

A. I would presume, although normally I would call it safe, but it's probably the same thing. [136]

Q. So, toss-up is the Cook, current Cook rating for an election that could conceivably in their minds come out either way, for the Democrat or the Republican, right?

A. It is not quite accurate because any of the competitive districts could come out either way.

Q. Sure.

A. But, what a toss-up means is to the best of your ability, based on, of course, past returns, you can't say whether it leans one way or the other.

Q. What does lean Republican or lean Democrat?

A. That means a very slight advantage to one party or the other.

Q. And what does likely Democrat or likely Republican mean?

A. Still competitive but more likely than not to go in either partisan direction.

Q. Okay. And if you look at this ranking on Page 8, the Number 1 ranked district [137] for biggest redistricting swings against the incumbent party is Maryland's 6th Congressional District, correct?

A. That's correct. It does exactly what I said it did. It took a district that you probably would rate as safe Democratic, to a D+2, which is even within Dr. McDonald's narrowest competitive range.

She created a competitive district that does tilt towards the democrats.

Q. I think you may have misspoke, so I just want to give you a chance to correct yourself?

A. Sorry.

Q. You said it started with a safe Democratic?

A. I meant Republican, obviously.

Q. I just wanted to correct it, to make sure we were on the same page there.

A. But, even a safe district, very rarely, but could possibly turn. But, that is a very black swan type of event. [138]

Q. You would need a wave election for that to happen?

A. Yes, and that does happen.

Q. Yes. Do you know how the current Cook rating of the Maryland's 6th Congressional District has changed since 2012?

A. I haven't looked at it, but I imagine it would become more Democratic, because you now have a well seated Democratic incumbent in the seat, and that would tend to tilt it more Democratic.

Q. Do you know how the actual PVI has changed over time, not just the rating?

A. There is a fair chance it has become more Democratic over time, because of the very heavy Maryland Democratic victories since this rating was set up in 2012, to 2016.

But, let's remember the critical, in terms of reevaluating redistricting, the critical election is the first election under the redistricting plan, which establishes incumbency and most closely mirrors the

politics of the [139] situation at the time the plan was crafted.

When ratings changed later, that could be a response to a whole host of things that no one could be aware of at the time they made the plan.

Q. So, I want to follow up on something you said.

The ratings immediately after the plan comes out, those are most indicative of what the intent was here, correct?

A. I'm not talking about intent here. I'm saying that that is most indicative—

Q. Of the politics, that is your word?

A. —of the politics that existed at the time of the redistricting.

Q. Okay. Got it.

A. Are we done with this?

Q. We are done with that.

MR. MEDLOCK: I will mark the next exhibit.

(Lichtman Exhibit Number 182 marked for identification.) [140]

BY MR. MEDLOCK:

Q. I am showing you what has been marked as Exhibit 182 to your deposition.

And, this is a report from the Cook Political Report, entitled Partisan Voting Index, Districts of the 113th Congress, Arranged by PVI Rank, Most Republican to Most Democratic. Do you see that?

A. Yes.

Q. Okay. And, this is a report that the Cook Political Report generates on a regular basis for each of, for each of the Congressional districts in the United States. Correct?

A. Right. And I think this is post 2012; is that right?

Q. That would be correct, if it is 113th Congress.

A. Yes, that is what I thought, because it has the Romney numbers.

Q. Yes, that is—I was actually going to get into that. So, if we flip one page in, you see [141] that there is a table on that page that continues for several pages.

A. Yes.

Q. That lists on the far left, there is a sequential numbering of each of the districts.

A. Yes.

Q. And then there is an entry for the state in one, in one column, and then an entry for the Congressional district, and then an entry for the member elected, right?

A. Yes, that is all correct.

Q. And then if you move further to the right, you see a PVI, which is the R plus number or D plus a number ranking from the Cook Political Report, correct?

A. Yes.

Q. And then they have information there about who the 2012 winner was in the general election, correct?

A. Correct.

Q. And then there is information, further to the right, about who the 2008 winner [142] was in the Presidential general election, correct?

A. Yes. And I presume that is in that district, not—

Q. In the—exactly. Is that your presumption?

A. That is my presumption. I haven't studied this, but I presume that is what they are doing.

Q. Okay. So, if you turn in to—and the pages are not numbered real well.

But, I want to focus—

A. If you can focus me to a sequence, that will do it.

Q. Yes, I will point you to 2B.6, and I'm looking at sequence Number 268.

A. Correct.

Q. Okay. And that is the Maryland 6th Congressional District, correct?

A. Correct.

Q. And it lists John Delaney as a winner, correct? [143]

A. Correct.

Q. And it says it is a D+4 district.

A. Correct.

Q. Okay. All right.

A. Which is what I predicted.

Q. That it would become more Democratic over time.

A. Right. Now that could have changed again after 2014. I don't know if it did. But, these things do change over time. But, the indicative one is the one immediately after, immediately at the time of the redistricting.

Q. If you look down below the 6th Congressional District, sequential Number 268, can you find any Congressional district that has a rating of D+4, or more, that is represented by a Republican?

A. And these are post hoc, in other words these are created after the election. So, it doesn't make any sense that, you know, they would be.

Q. Right. Well, I will cut to the [144] chase then.

A. Because, they are based upon the fact that, at least in part, that Democrats won those districts.

Q. I will tell you the only one I can find which is 286, Gary Miller in California's 31st. He is a Republican who is elected in a D+5 district. Do you see that?

A. I do. Let me see if there is. I would be surprised, given the way this is done.

I don't see any others. And I wouldn't expect it.

Q. Okay. That would be unusual, correct?

A. Yes.

Q. Okay.

A. Because it is done based, at least in part, on the fact that those Democrats won those districts.

So, it is what it is.

MR. MEDLOCK: Okay. I will mark the next exhibit. [145]

THE WITNESS: And it is worth noting that in the next election, despite a D+4, John Delaney performed well below D+4. He almost lost the district.

BY MR. MEDLOCK:

Q. Right. But, he didn't, did he? He beat—

A. Barely.

Q. —his Republican challenger?

A. By very few thousand votes, by 1.5 percent in a D+4.

So, my point is that we've made this point before, you know, these are imperfect.

Q. Sure. In every Congressional election that has happened—or every election for the U.S. House of Representatives that has happened in the 6th Congressional District since the 2011 redistricting, a Democrat has always won that election, correct?

A. Correct.

Q. Okay. And, in other statewide races that happened in the 6th Congressional District, [146] the only statewide race that a Republican has won was Governor Larry Hogan, correct?

A. Incorrect.

Q. Incorrect. Who is the other one?

A. I think it was Frosh. It is in my report. Got 49.3 percent of the two-party vote. So, a Republican did win in that district, that election as well.

Q. So, besides those two elections, every other one of the ten elections that has happened in that, in the Congressional District 6, a Democrat has won, correct?

A. Correct.

Q. Okay.

MR. MEDLOCK: Mark the next exhibit which is 183.

(Lichtman Exhibit Number 183 marked for identification.)

BY MR. MEDLOCK:

Q. So, I've put in front of you what we've marked as Exhibit 183 to your deposition.

It is a, another Cook Political [147] Report, Partisan Voter Index Report, for the 115th Congress, correct?

A. Yes.

Q. Okay. And it is, if you slip in, the table is arranged in the same manner, only it now includes data from the 2016 Presidential election, and the 2012 Presidential election?

A. That's correct, right.

Q. Okay. And I would like to focus you on sequential—

A. And it was also obviously Congressional elections in 2016, obviously.

Q. Oh, sure, yes. I would like to focus you in on sequence Number 272, which is on Page 2B.6—

A. I'm there.

Q. —of the exhibit. That is the listing for the 6th Congressional District in Maryland, correct?

A. Correct.

Q. And it shows that John Delaney is the member elected, correct? [148]

A. Correct.

Q. And it now shows a PVI of D+6?

A. Yes, that's exactly as I told you I would have predicted.

Q. So, this is not unusual. You would have expected this trend?

A. Yes, given the 2012 and 2016 results in Maryland. But, at the time of the redistricting, these were not the numbers.

Q. Sure. I understand. I'm just trying to get the trend down.

A. Yes.

Q. Okay.

A. And, you know, trends can go in either direction, as we know. And you can't tell back in 2011 which way the trend is going to go.

Q. Right. But since 2011 the trend is clear. It is becoming a more Democratic district, correct?

A. Yes.

Q. Okay. [149]

A. Simply because of the results of these elections. Not because anything was changed about the dis-

trict.

EXAMINATION BY MS. RICE:

Q. Ms. Strine, I noticed, and I apologized this morning, there was an error in the deposition notice that we sent to you. So I've given you the original there and the correction with your name spelled correctly on it.

Have you seen this document before?

A. Yes, I did. Not the corrected one. This is the first time.

Q. Okay. Great.

And you are Sharon Strine?

A. Yes.

Q. So today we are not anticipating that we will be here that long, so we are going to try to make it through without a break, but if you need one, just let me know, and we will find an appropriate place to stop.

If you don't understand a question that I ask you, please tell me, and I will rephrase it so that it's something that you do understand.

Please make sure that your answers are [7] verbal for the benefit of the court reporter. And, also, for the benefit of the court reporter, let's both do our best not to talk over each other. And we will all try to do that as well.

Have you taken any medication today?

A. No.

Q. Is there any other reason why you might not be able to testify this morning?

A. No.

Q. Ms. Strine, what do you do for work?

A. Mostly I take care of our family farm, and then I also do campaign management, and I have a small consulting business, political consulting business.

Q. What kind of farm do you have?

A. It's poultry, and vegetables, and hay, yes.

Q. And does your consulting business have a name?

A. Amethyst Strategies.

Q. And do—

A. LLC. Sorry. [8]

Q. Are you doing any current work?

A. No. This is in between season, so, no.

Q. And what was the last campaign that you worked on?

A. I helped with Frank Howard's campaign. He ran for Congressional CD 6 in the primary, but he did not make it through the primary.

Q. And what was the campaign previous to that one that you worked on?

A. I worked on Dan Bongino's congressional campaign for CD 6, Maryland Congressional District CD 6.

Q. And what was the prior campaign?

A. I worked on Dan Bongino's U.S. Senate campaign in 2012, for Maryland U.S. Senate.

Q. And was that the first campaign that you worked on?

A. No, the first campaign was Kathy Afzali for State Delegate, District 4A.

Q. And what year was that?

A. That was 2010.

Q. And did you work on Mr. Bongino's [9] campaign in Florida?

A. No. I have to stay local. My family's too important.

Q. And what was the highest level of education that you achieved?

A. I finished high school and then I've taken tons of classes since then.

Q. What kinds of classes?

A. I'm not going to be able to name them all. Anything that interests me. I've done accounting, anatomy, physiology, statistics, taxes, web design, photography. And, as I said, I'm not going to be able to name them all. Probably 20 or 30. Right now I'm taking Thai poorly.

Q. And is there some place that you take these classes?

A. Sometimes I do them on site. FCC, HCT, Hood. They are all very good locations, but now with on line, possibilities are endless. You can take anything.

Q. When did you first register to vote? [10]

A. On my 18th birthday, April 29th, 1982.

Q. Where did you live then?

A. I lived on Harp Hill Road. It's 11611 Harp Hill Road, Myersville, Maryland.

Q. And what congressional district is that?

A. District 6. It was. It's not now.

Q. And who was your congressional representative?

A. At that time it was Beverly Byron, but I moved out of there in '83. She left office a couple years after that.

Q. So that gets to my next question. Where did you move next?

A. To Middletown for one year in an apartment, 312 Broad Street, and I was there until '84.

And then I bought my first house on Loy Wolfe Road, which was 12610 Loy Wolfe Road, Myersville, 21773, until '96. And then we moved to the house we are in now, which is 12709 Martin Road, Smithsburg, Maryland, 21783.

Q. And are all those addresses in [11] Congressional District 6?

A. They were.

Q. And so you said that Beverly Byron left office shortly after you moved. Who was your congressional representative after?

A. It was Roscoe Bartlett.

Q. And who is your congressional representative now?

A. Jamie Raskin.

Q. And who was your congressional representative in 2012?

A. Van Hollen.

Q. In 1982, how often did you vote?

A. In 1982?

Q. Yeah.

A. I voted in every election. There are no municipality elections where I live, but any primary, presidential, or gubernatorial election.

Q. So just so I understand, you voted in every election, every primary in a gubernatorial year and every primary in a presidential year?

A. Uh-huh. [12]

Q. And every general election in a gubernatorial year and every general election in a presidential election?

A. Yes. Civics was very important in our family.

Q. And that's continued to the present day?

A. Uh-huh.

Q. Have you ever missed an opportunity to vote?

A. Not with early election. There's no excuse now.

Q. Are you registered as a member of a political party?

A. Yes. I'm a Republican.

Q. And when did you first register as a republican?

A. April 29, 1982.

Q. And have you ever registered with another party?

A. No.

Q. Have you ever affiliated with another party in any way? [13]

A. No. Well, what do you mean? Like helping a candidate that's a Democrat? Because otherwise, no.

Q. So by affiliated with a party, I'll get—we will talk about different candidates you may have helped later, but when I'm talking about affiliating with a party, I would mean going to a meeting of that party, identifying yourself as a member of the party.

A. No.

May I take my jacket off, just because it's 900 degrees in here?

Q. Of course.

A. Thank you. Sorry about that.

MS. WEBB: Could you say for me again, you said, by affiliating, you mean going to a meeting or—

MS. RICE: If we can read that back. Is that okay?

(The record was read by the Reporter.)

BY MS. RICE:

Q. Have you ever voted for a candidate who [14] is not a Republican?

A. Yes.

Q. When?

A. I voted for Beverly Byron. And then I voted for Brad Young, who is the president of Frederick County's Board of Education. They ran two times, two sessions.

Q. Okay. And are those the only times?

A. Yes.

Q. What party was Beverly Byron?

A. She was Democrat. She was a conservative Democrat.

Q. And what party is Mr. Young?

A. You're not supposed to know because it's supposed to be bipartisan, but he's a Democrat.

Q. When Roscoe Bartlett was on the ballot, did you ever vote for someone other than Roscoe Bartlett?

A. No.

Q. Did you vote for Chris Van Hollen?

A. No.

Q. Who did you vote for? [15]

A. Whoever the Republican was that was running.

Q. But you don't remember who that was?

A. Dan. Well, Dan ran against Cardin, and there's always somebody who jumps in and runs as the

Republican party, but they don't have a chance to win, so.

Q. Did you vote for Jamie Raskin?

A. No.

Q. Who did you vote for instead?

A. I can't remember his last name. His first name is Dan. I'm sorry.

Q. That's okay.

When did you first meet Dan Bongino?

A. It would be the summer of like 2010. Somewhere around there.

Q. And how did you start working for him?

A. I started as his volunteer coordinator, and then from that through the organization moved up and became his political director, and during the last part of the campaign, I was his assistant deputy campaign manager. [16]

Q. And why did you decide to act as Mr. Bongino's volunteer coordinator?

A. After I won with Kathy and her election, I met Dan, and he just was a very charismatic candidate. He had all the principles and values that I was looking for in a candidate, and so I got involved.

Q. When you were working for Mr. Bongino, did you send and receive e-mails as part of your job?

A. Yes.

Q. And why would you send and receive e-mails as part of your job?

A. If it was when I doing volunteer coordinating, it was talking to volunteers about events that were coming up. When I moved up to political, I'd—it

was talking to, again, the volunteers, making sure events were taken care of.

And then when I was the deputy campaign manager, it was talking to the accountant. It could have been with anything, anything involving [17] the management of the campaign.

Q. Would you keep e-mails to keep track of Mr. Bongino's appearances?

A. I keep everything.

Q. And would you keep e-mail to keep track of donor information?

A. Very minimally because you want to really protect your donors.

Q. But if you did have e-mail about donors, would that e-mail, the reason you had that e-mail be because of your job?

A. Yes.

Q. Did you believe Mr. Bongino could win the Maryland Senate seat in 2012?

A. That was naive, I did. That's before I truly understood Maryland politics.

Q. Why did you think he could win?

A. Because I thought if you got a good candidate out there, this is at the time, I'm much more knowledgeable now, if you got a good candidate out there and people got to meet him, they would vote for him, but it's just impossible [18] in this political environment.

Q. What do you mean by "this political environment?"

A. There are too many Democrats in Maryland for a Republican to win in a statewide race.

Q. Did Mr. Bongino consider running for Congressional District 6 in 2012?

A. No.

Q. And why not?

A. He left the Secret Service in hopes of winning State Senate or Senate. I mean, it was, again, he didn't understand the environment either. That's just the naiveté of somebody new to the political scene.

Q. Where did Mr. Bongino live in 2012?

A. He lived in Severna Park.

Q. And through his run in 2012 and 2014, did he ever move?

A. No. You don't have to live in your district to be in federal office.

Q. Did you follow Roscoe Bartlett's race in Congressional District 6 in 2012? [19]

A. I did because I was friends with his campaign manager. I followed it rather closely.

Q. Why didn't Mr. Bartlett win?

MS. WEBB: Objection. Speculation.

THE WITNESS: Sorry.

MS. KATZ: You can still answer.

Q. You can still answer.

A. Okay. I speculate that it was because of the redistricting. There's just too many, as I know so much about the district now, there's just too many Ds for a Republican to win.

Q. Is that speculation or is that your belief?

MS. WEBB: Objection. I'm not sure what you mean.

Q. You can go ahead and answer.

A. Yes. I believe that, yes.

Q. And what's—

A. There are four Democrats for every Republican in the district, in District 6.

Q. So you your belief is based on—

A. The numbers. [20]

Q. —the numbers. Okay. And that's your understanding of the numbers. Okay.

Do you know why Mr. Bartlett didn't run for Congressional District 6 in 2014?

MS. WEBB: Objection.

A. No, I don't know personally why he didn't run. Sorry.

Q. Do you have a belief about why he didn't run?

A. No.

Q. Why did Mr. Bongino decide to run for Congressional District 6?

MS. WEBB: Same objection.

Q. You may answer.

A. He knew the people in the district and, you know, he desperately wanted to run for office. So that's why he did it.

Q. What do you mean by "desperately wanted to run for office?"

A. He doesn't want to do it now, but he is one of those people that believes that he can do better if he helps and runs for office. He can [21] make a change if he's in office.

Q. Who is Allyson McMahon?

A. She's a friend of mine.

Q. And what was her role in the Bongino campaign?

A. She was deputy, well, I guess you call her deputy director of operations. That would be the best description. She kind of ran the field, but she was not an employee. She volunteered her time.

Q. But she was the director of operations?

A. Uh-huh.

(Whereupon, Strine Deposition Exhibit No. 3, campaign information e-mail, marked.)

BY MS. RICE:

Q. Do you recognize this document?

A. Uh-huh.

Q. What is it?

A. Yes. I'm sorry.

It looks like it's one of our campaign information documents that we put together.

Q. And who wrote it? [22]

A. It would have either been Ally or it would have been Jim Petit. One of the two. It's 2014, so I'm not a hundred percent sure.

Q. Who is Jim Petit?

A. Jim Petit was our communications director.

Q. And why did you have it in your e-mail?

A. Anything regarding the campaign I would have had.

Q. Great.

If you look at the sheet that says 2014 campaign information, and under the district, I'm just going to give you a second to read that and I will ask you a question about it.

A. Okay.

Q. Do you agree with the description of District 6 in this document?

A. It's not like that now, but, yes.

Q. But at the time in 2014 you agree?

A. Uh-huh.

Q. And moving down to the next section, the document, the opponent, take a look at that and [23] let me know when you're done.

A. Okay.

Q. Do you agree with the description of John Delaney in this document?

A. Yes.

Q. When he decided to run, did you believe that Mr. Bongino could win Congressional District 6?

A. I believed it was going to be an uphill battle.

Q. And why was that?

A. Because of the demographics of his district.

Q. And had you looked at the demographics at that time?

A. I started to really study it once he decided to run.

Q. And what was it about the demographics?

A. It's too many Democrats.

(Whereupon, Strine Deposition Exhibit No. 4, e-mails, marked.)

BY MS. RICE: [24]

Q. Who is Maria Pycha?

A. Uh-huh. She was our finance director.

Q. Do you recognize this document?

A. Yes, but just vaguely. It's been so many years, but, yes.

Q. Would this document have been received as part of your duties as campaign manager?

A. No. She obviously copied me on a conversation with Maria, Ally did, so, yeah. Everybody liked to copy me because I'm the organizer. I keep everything.

Q. Right. Excellent. Okay.

If we look just in the portion of this communication that is from Ally on March 12, 2014, so kind of the bottom of the first page, the first paragraph.

A. The very first paragraph?

MS. WEBB: The one that begins, "Hey, Maria?"

MS. RICE: Yeah.

Q. If you could look at that and tell me when you're done. [25]

A. Okay.

Q. Are you familiar with the poll that Ally is talking about at that point?

A. A poll?

Q. Yeah.

A. Where is there anything about a poll?

Q. The second to the last sentence.

A. Oh, yes. Sorry. Yes, I know the poll.

Q. And what were the results of the poll?

A. It's about a hundred pages, and it was not—it was specifically about different issues. I would have to refamiliarize myself with it.

Q. Do you know what Ally is talking about when she says, "We have a visible path to victory?"

MS. WEBB: Objection. Calls for speculation.

Q. You can answer and you must.

A. Yeah. If we had, you know, hit on the ground and raise money, we may have a visible path of

victory. I understand what she is [26] talking about, but the poll didn't say that specifically.

Q. Okay. So can you just elaborate a little bit because I'm not sure that I understand? What did you think Ally meant when she said a visible path of victory?

MS. WEBB: I will restate my objection.

A. I really don't know because, as I said, the poll itself, it was about issues, economics and where do people feel about fracking. We didn't actually go into the numbers as to whether he could a hundred percent win or not in the poll.

Q. Okay.

A. Name recognition. So, as I said, it's like 200 pages.

Q. Did you at the time, so in March, 2014, share Ally's belief that there was a visible path to victory?

MS. WEBB: Objection. Lacks foundation and calls for speculation.

MS. KATZ: Can we go off the record for a [27] second?

(Discussion off the record.)

MS. WEBB: Go ahead. You can answer.

THE WITNESS: Would you ask the question again, please?

MS. RICE: Yes.

Q. Did you personally share Ally's belief that there was a visible path, in March of 2014, that there was a visible path of victory?

MS. WEBB: Objection.

A. I was always a skeptic because I wanted him in office so badly, but it was going to be such a tough road.

Q. Did you share your skepticism with anyone?

A. My husband. You can't be like that and run a campaign.

Q. And what were the obstacles that you believed were in place at the time? At the time. Not now.

A. Trying to get Democrats, enough Democrats to vote for Dan. [28]

Q. And why did you think that would be a problem?

A. Because of the type of Democrats that are in our district now, they vote straight, especially in an off-year election. The people who people are people who really want to vote. So they are consistent Democrats that vote democratic consistently. So it just seemed like an uphill battle. I wanted it to happen, but I was afraid we would lose by a point or two, which is exactly what happened.

Q. So we just talked about in March. What about after the primary in June? Did you believe that Mr. Bongino could win Congressional District 6?

A. I was always the skeptic.

MS. RICE: This will be marked as Exhibit 5.

(Whereupon, Strine Deposition Exhibit No. 5, e-mail, marked.)

BY MS. RICE:

Q. Do you recognize this document? [29]

A. Uh-huh.

Q. What is it?

A. It's an e-mail of Marge Barnard.

Q. And who wrote it?

A. I did.

Q. And in what capacity did you write it?

A. At the time I was the deputy campaign manager.

MS. RICE: Mark this as Exhibit 6.

(Whereupon, Strine Deposition Exhibit No. 6, e-mails, marked.)

BY MS. RICE:

Q. Do you recognize this document?

A. No, but I'll read it. I'm sure I've seen it. Okay.

Q. What is this document?

A. It looks like it's Maria and, excuse me, Mary Jane raised $2,600 for Dan.

Q. Who is Mary Jane?

A. Mary Jane was a volunteer part of the Finance Committee.

Q. And do you know who Bob Luddy is? [30]

A. No, I don't know Bob.

Q. And why did you have this e-mail?

A. Because I am the organizer and they send everything to me so I can keep it on file.

Q. Great. Thank you.

How many volunteers did the 2014 Bongino campaign have?

A. I'm not going to give you an exact number because I don't know what it was now, but we were over 2,000 volunteers.

Q. Did you think that it was an obstacle to the campaign that Mr. Bongino did not live in Congressional District 6?

A. To be honest with you, that was a question that was in the poll and no one cared.

Q. As the campaign manager, did you receive reports from your team that were out in the field over e-mail?

A. Yes.

Q. What kinds of things would they e-mail you about?

A. It could be anything about with, you [31] know, how, where are we going to set the tent up at a festival. It could be how many people are going to show up at a parade, how many doors were knocked on, how many phone calls were made. We need more T-shirts. We're out of bumper stickers. It could be anything involving the communication of the campaign.

Q. Would your field operators tell you if they heard about a complaint about the campaign?

A. Yes, because, actually, I handled all of the complaints where the campaign was concerned.

Q. And you kept records of those complaints?

A. Uh-huh.

Do you think at 10 we could break to use the bathroom?

Q. No problem. It might be a natural time for a break anyway.

MS. RICE: I'll have marked this as Exhibit 7.

(Whereupon, Strine Deposition Exhibit No. 7, e-mails, marked.)

BY MS. RICE: [32]

Q. Do you recognize this document?

A. No, but I'll read it. Okay.

Q. And what is this document?

A. It's somebody complaining that Dan doesn't live in the district.

MS. RICE: Mark this one as Exhibit 8.

(Whereupon, Strine Deposition Exhibit No. 8, e-mail, marked.)

BY MS. RICE:

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It looks like Ally is trying to figure out where we are going to put signs up. We were discussing the district. It was a learning curve to learn the district.

Q. Do you see the second sentence on the first paragraph?

A. Yes.

Q. Did you commonly encounter Republicans who were supporting Delaney on the campaign?

A. Some. Not many. [33]

Q. And were there any other common obstacles that you heard from people you thought might be supporters of Mr. Bongino?

MS. WEBB: Objection. Foundation.

MS. RICE: That's an improper objection.

MS. WEBB: No, it's not, and I'm happy to discuss it, if you want her to step out of the room.

(The witness left the room.)

MS. WEBB: You said were there any other common obstacles that you encountered in your work, and we haven't established any obstacles that were common. I'm not sure what you're referring to.

MS. RICE: Foundation, per se, is an improper objection.

MS. WEBB: Not in my practice. I don't know if Maryland has a special rule on that, but—

MS. RICE: It goes to relevance and admissibility of the evidence, which is not the issue. [34]

MS. WEBB: I mean, I guess we have to disagree on that. I'm happy to try to tailor my objections, you know.

MS. RICE: Yes. Please tailor your objections to curable objections because those are the objections that are allowable in Maryland.

So the only times that you can object in Maryland are when it's something that I can cure or it's something that would be about to invade a privilege.

MS. WEBB: Okay.

MS. RICE: So let's to limit those objections to this.

MR. STEIN: Do you have a rule you can show us on this?

MS. RICE: Yes. You want to take a break?

MR. STEIN: Yes.

(Break taken.)

(The witness returned to the room.)

MS. WEBB: I'm just going to remind you [35] that I may make objections from time to time, but you should go ahead and answer the question asked.

THE WITNESS: I'm just pausing to make sure that everything is finished before I answer, but I will be glad to answer.

MS. RICE: Great. Thank you all.

BY MS. RICE:

Q. So I'm going to get back where we were. And I think when we paused I had a question pending, so I'm going to repeat it for that purpose.

Did you know of any other obstacles to Mr. Bongino's campaign, the 2014 campaign, from people who you thought would have been supporters?

MS. WEBB: Objection. Foundation. Speculation.

A. I don't understand what you are asking.

I'm sorry. I genuinely don't understand.

Q. Let me try again.

A. Okay. I'm sorry. [36]

Q. No. That's great.

In your capacity as campaign manager, were you aware of complaints from people that maybe you would have expected to support Mr. Bongino about his campaign?

MS. WEBB: Objection. Speculation.

A. I'm sorry. I'm just trying to think in what direction. You know, going back to the poll, I know that I said nobody cares about it, but what it was, it's 70 percent of the people did not care that he did not live in the district, and we polled Democrats, Independents, and Republicans. So there were 30 percent, but we didn't see the breakdown who it was that cared.

But, other than that, you know, I just am not sure who you are talking about, whether you are talking about business leaders, politicians. Are you talking about voters in particular?

Q. Let me try it another way.

Putting aside what you already talked about, the number of Democrats in the district, [37] were there any other major issues that you thought that Mr. Bongino needed to overcome?

A. Raising money.

MS. WEBB: Objection.

A. Seriously, that's the biggy.

Q. And why did you think Mr. Bongino would have difficulty raising money?

A. Because John Delaney had so much money.

You don't have to match your opponent one to one, but you've got to be able to make a dent.

Q. And was Mr. Bongino successful in raising money?

A. Yes. He raised about $2 million through the process of the primary and the general.

(Whereupon, Strine Deposition Exhibit No. 9, e-mails, marked.)

BY MS. RICE:

Q. Do you recognize this document?

A. I'm reading it. I mean, I know that I sent it, but I don't remember it.

Do you want me to read the whole thing?

Q. I think if you—read as much as you [38] need to familiarize yourself with the document. Let me know if you recognize it.

A. Okay. I got the gist of what the question is. It's typical of the things that I handled.

Q. So this e-mail would be typical of something that you handled in your capacity as campaign manager?

A. Yes.

Q. And who is it from or who is Jeff Miller?

A. I don't recall who he is, but it looks like he is somebody who wanted to attend an event.

Q. Great.

MS. RICE: Mark this one as Exhibit 10.

(Whereupon, Strine Deposition Exhibit No. 10, e-mail, marked.)

BY MS. RICE:

Q. Do you recognize this e-mail?

A. No, but I'm reading it. Okay.

Q. What is this document?

A. It looks like it was someone complaining [39] about getting phone calls from the phone bankers.

Q. And why did you receive this document?

A. Because I handled the complaints of the campaign and then would find who would handle it from there, and I kept it in my files to make sure it was taken care of.

Q. Great. Thank you.

Why do you believe that Mr. Bongino was not successful in his 2014 race?

A. It wasn't for lack of trying. We knocked on so many doors, made so many phone calls, talked to so many voters. There just aren't enough people to vote Republican in the district.

Q. Did Mr. Bongino get fewer votes than Governor Hogan in Congressional District 6?

A. To be honest with you, I wouldn't be able to answer that because I just didn't look at Governor Hogan's numbers in District 6. I'm sorry.

Q. Why didn't you look at Governor Hogan's numbers?

A. Because I wasn't concerned about that. I [40] was looking at District 6.

Q. Do you know if Mr. Bongino got as many votes—oh, never mind. Strike that.

MS. RICE: 11.

(Whereupon, Strine Deposition Exhibit No. 11, e-mail, marked.)

BY MS. RICE:

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It was communication back and forth with me, Kathy Afzali.

Q. And why do you have, why did you retain this e-mail?

A. Because I keep all my e-mails, unless they are junk.

Q. Did you receive this e-mail in your capacity as Mr. Bongino's campaign manager?

A. Yes, after the election.

Q. I think we mentioned Kathy Afzali a few times. Who is she?

A. She's a delegate in District 4-A. It's [41] just 4 now. It's not 4-A. I ran her campaign.

Q. Oh. Who is Michael—

A. He's a State Senator. Michael Hough.

Q. Hough.

Go to the second page, the third paragraph, full paragraph on the top. Did you write this part of the conversation?

A. Uh-huh.

Q. And what did you mean in that paragraph?

A. Basically what I have been telling you. It was a David and Goliath race. Too many Democrats to win the race.

Q. Who is "you" in that paragraph? I'm well aware of the games you were playing.

A. Who am I?

Q. No. I'm reading from that paragraph.

A. I'm sorry. Please repeat. I'm sorry.

Q. If you look at that paragraph in the first sentence, the word you, who does that refer to?

A. I guess you as in the you, everybody.

Q. Did you write this e-mail in response to [42] Kathy Afzali?

A. Yes.

Q. So you are saying that when you said, "I'm well aware of the games you were playing behind the scenes during the election cycle, and to be honest, I'm ashamed," the "you" in that sentence refers to the general public?

A. Quite honestly—okay. I don't know where you are going with this, so I'm trying to understand.

Even if related, then this amateur hour analysis would lead you to believe, that would be like leave anyone who is looking at it, lead you to believe that Bartlett and Young were the two worst candidates in Frederick County.

That's referring to her analysis. And then I asked her to take a few minutes to do a little research.

So what is your question? I'm so sorry.

Q. Yes. That's the first—

A. I'm not trying to be combative. I just don't understand. [43]

Q. No. That's fine. We all want to understand each other.

That's the first full paragraph. I'm looking at the third full paragraph.

A. Okay.

Q. I just don't understand it.

A. It's saying that she had said that we recreated the politics in Frederick County, and I said that we didn't. We actually were using common sense. We knocked on doors. We didn't have money. That's why we worked every festival.

Q. What are the games that you are referring to in this sentence?

A. The games that she was playing? Kathy has turned into your typical politician, and she was behind the scenes because she was jealous that I was working his campaign. She had run against Bartlett and lost in the primary, and so she was telling people not to vote for Dan.

Q. so—

A. And we are friends again. It was just a heated, emotional discussion, and we talk now all [44] the time.

Q. Who did she tell not to vote for Dan?

A. We would knock on a door and someone would say, hey, I talked to Kathy Afzali and she said we are not supposed to vote for Dan.

Q. Who was she suggesting that they vote for?

A. Delaney.

Q. So sticking with this argument for just a second, if you look to the original e-mail from Michael Hough, it's one, two, it begins on the bottom of page 3 and goes over to page 4, and, actually, before we get to that, how often did you encounter that reaction that somebody had spoken to Ms. Afzali before you got there?

A. It was only in District 4. So it's a very small district and maybe we encountered it four times.

And I can't be a hundred percent accurate on that, but it wasn't that often.

Q. Okay. So on that, I think it's the fourth page here, Mr. Hough was giving some comparisons with Governor Hogan's performance in [45] the Frederick City, not district-wide. Is that correct?

A. I mean, it looks like it, yes. Frederick City is a high Democrat area.

Q. And were you aware that in Frederick City, Governor Hogan had more votes than Mr. Bongino?

MS. WEBB: Objection. Foundation.

A. Obviously, when I see this, but there's a reason for it.

Q. What's the reason?

A. Brad Young was running for County Exec in Frederick County, and he is hated by the Democrats in Frederick City. And—not Brad Young, excuse me, Blaine Young, and Blaine was a supporter of Dan's.

So people who wanted to vote against Blaine voted against Dan in Frederick City.

And, yes, we did hear that when we talked to Democrats at festivals, especially on July 4th, when we were at the July 4th festival.

Politics is an ugly game. I'm sorry. [46]

Q. I'm sorry for skipping around. I apologize.

Back to the second page of this document, the end of the first page, on the top of the second, you talk about, I'm just going to read here, "Anyone with a modicum of experience in politics understands a state race and a federal race are decided by completely different criteria."

Can you explain what those criteria are?

A. If you are referring to a delegate, a delegate is only in a small district. I would assume, but I don't remember, I was probably talking about the Hogan race. And people are looking for somebody who is going to work for them at the State House when they are doing a state election. When they are voting for a federal race, they are looking for somebody who is going to go to Capitol hill and fight for you, and they just look at things differently as to who they vote for.

Q. What kinds of things are looked at [47] differently?

A. Well, you are not going to—as far as a state road, you are going to hope that, you are going to reach out to, as a state, to get improvement in a state road. If you are talking about I-70, you are going to go to—well, actually, they don't do that either.

How about anything that is a federal issue. If it has something to do with the constitution, what laws are being passed on Capitol Hill, that kind of stuff, you vote for your congressman and your senator with that in mind. If you are voting for your governor, you are voting for a governor that is going to work with you within the State laws.

Q. And do you think that difference in what you, what a voter might be looking for creates a change in their voting behavior?

MS. WEBB: Objection. Calls for speculation.

A. Yeah. I can only speculate.

Q. What is your belief about it? You can [48] answer about your belief.

A. Maryland politics is a rough world. As I said, I had to learn on the fly ten years ago. The Governor has to be able to placate both sides to get in. We don't have Republican governors that get reelected, and I doubt that Hogan will as well just because that's just the way it works. He had a bad candidate that he was up again, I mean, a very bad candidate, and that worked for him as well. Maryland was tired of politics with O'Malley and it was time for a change.

Q. Going back for a second to an answer you gave previously, why did you vote for Beverly Byron?

A. Because she was a conservative Democratic.

Q. What do you mean by conservative Democratic?

A. She was fiscally conservative. That's what I'm looking for.

Q. And you also mentioned the—[49]

A. Brad Young.

Q. Brad Young. Why did you vote for Mr. Young?

A. Because he is fiscally conservative, and everybody likes him.

Q. Do you consider yourself to be politically active?

A. Now, yes.

Q. You said now. When do you think you became politically active?

A. 2010, yes.

Q. And why?

A. Because of the political environment.

The census was coming up. I was scared to death what was going to happen, and I just knew I had to step up.

Some people go back into their own lives and just ignore what's going on in the world.

I'm the type of person that I'm a fixer. If I see there's a problem, I got to get involved, and that's how I got involved.

Q. What were you scared of? [50]

A. The political environment, the debt, the national debt that was happening, the raising of minimum wage. I mean, we could talk for the next three hours with my concerns about politics.

Q. Putting your work for Mr. Bongino aside, have you ever attended an event that was held by your congressional representative?

A. By my congressional representative? No. He has only been in office for a very brief period of time.

Q. Sorry. Throughout your whole voting life, have you ever attended an event held by your then current congressional representative?

A. I did for Roscoe. He always did little town meetings and stuff.

Q. Okay. So you attended town meetings that you just said—

A. I probably went to two in the time that he was in his 2010, how many terms he had.

Q. Do you remember what topic they were on?

A. No.

Q. Do you remember, were you just a [51] participant at the meeting?

A. Actually, the first time I took my son solely so that he could learn about, because he was getting ready to vote, or not vote, excuse me, getting ready to register to vote, my oldest son. I don't remember the topic and I don't remember why I went the second time.

Q. And did you ever attend an event with him with Beverly Byron?

A. I actually did a parade with her when I was like 15 years old, so, yes. I did hold a sign. They were good people, Beverly and Goodloe.

Q. And what about Chris Van Hollen?

A. No.

Q. Have you ever volunteered on a campaign for a congressional representative other than Dan's campaign?

A. Beverly Byron I did a parade. That's it.

Q. And have you ever contacted your, and by your congressional representative, I mean from your whole voting life, your representative at [52] the time?

A. One time I contacted Roscoe Bartlett. We were attempting to get a travel visa for my now daughter-in-law, then engaged to my son. She's Thai. We were unsuccessful. Then I also reached out to Mikulski and Cardin, but they didn't respond.

Q. But that was the only time you attempted to contact a congressional representative?

A. Correct.

Q. And so that was related to constituent services?

A. Uh-huh.

Q. Is the answer the same about an issue? Have you ever contacted your congressional representative about an issue?

A. I wrote a letter to Mikulski when they were getting ready to raise the budget in like 2011, maybe, something like that, and I hand delivered it to her office.

Q. And is that the only time that you—

A. That I can remember. I'm sorry. I don't [53] recall reaching out to them.

Q. When was the first time you became interested in redistricting?

A. As I said, it was 2010 when the census was coming up, and it was just reading an article on the web about the possibility that we could lose District 6, and I was like, I've got to look into it more, and that's when it started.

Q. And was that interest solely confined to congressional redistricting?

A. Yeah, actually, because I wasn't going to lose my state delegate because that was going change. They were going to put two districts together, which they did, and, you know, our state senator wasn't going to change because that district stayed the same. It was just tweaked a little bit by a road or two.

Q. Have you ever—when did you first find out about the 2010 congressional redistricting cycle? Do you remember what month it was?

A. No.

Q. After you found out about it, did you [54] take any action regarding the redistricting?

A. I always do. Argued with my husband, You know, this is what's going to happen. Seriously. He and I talk things through that way, and he actually said, do your thing and get involved, and that's how it happened.

Q. How did you get involved?

A. I first meet Kathy Afzali and decided to help her with her campaign because while we were knocking on doors during that time, we told

people to vote for Ehrlich because the census was coming up, and it was going to be a redistricting time, and that's because I was so new at politics, I thought that was the best way I could help.

Q. And did you testify before the Governor's Redistricting Advisory Committee?

A. No.

Q. Did you submit any public comment on the plan?

A. No.

Q. Did you write a letter about the [55] redistricting?

A. No.

Q. Did you call any of your elected representatives about the redistricting?

A. Of course I talked to Kathy all the time about it. She actually was fighting it tooth and nail at the State House. And I attempted, they had redistricting meetings all over the place, and I attempted to attend them, but I could never find out where they were.

Q. And did you—were you aware of the referendum on redistricting?

A. Is that like the one that was Question 5 about the boundaries according to the census and the constitution? That one?

Q. Yeah.

A. Yeah.

Q. Did you gather any signatures related to that?

A. No.

Q. Did you—how did you vote on the referendum? [56]

A. If that's the correct one, I voted no.

Q. And have you taken any actions about redistricting after the passage of the 2011 plan?

A. I got involved in this.

Q. So without telling me about any conversations that you had with your lawyers after you asked to be represented by them, so after that, how did you first hear about this lawsuit?

A. Maria Pycha has become a very good friend of mine, and she heard me do nothing but complain about the redistricting, and she said, hey, you need to get involved in this. That's how it happened.

Q. Okay. And why did you decide to join the lawsuit?

A. Solely to see if we could fix the mess.

Q. What mess?

A. The redistricting, the gerrymandering of the district.

Q. And what particularly did you want to fix? [57]

A. I would love it to go back to the way it was before it was changed.

Q. And what problem would that solve?

A. It would allow us as a representative republic to have a representative that matches our principles and values in our district.

Q. Who are you talking about when you say us?

A. I'm talking about the Republicans in the district.

Q. Do you think you were harmed by the 2010/2011 Congressional redistricting?

A. In the most simplest form, yes, because we do not have somebody that represents us anymore.

Q. And how is that harmful to you?

A. Because we don't have somebody who speaks for us. Our government was formed as a representative government. We were supposed to vote on somebody that represented us and would go down and speak for us at Capitol Hill. But what has happened is, we no longer have that. Then we [58] can go back to our lives and work; trust they will do the work for us.

Q. Who do you mean by us?

A. The Republicans in the district.

Q. In what district?

A. District 6, but I'm no longer in that district. I got taken out and put into District 8, and I'm exactly 3.1 miles from the district.

Q. Do you have a congressional representative?

A. Yes, Jamie Raskin. He just was sworn into office.

MS. RICE: Let's take a quick break.

(Break taken.)

BY MS. RICE:

Q. Two more questions.

If there was somebody on the ballot who was fiscally conservative, would you vote for them?

A. Uh-huh.

Q. Regardless of—

A. Yes. I'm sorry. Yes. Sorry. [59]

Q. Regardless of what party they were affiliated with?

A. Yes.

MS. RICE: I'm done.

EXAMINATION BY MS. WEBB:

Q. Just a few questions.

A. Okay.

Q. So could you describe again just quickly what jobs you held on the Bongino campaign?

A. The Senate campaign or the Congressional?

Q. The Congressional.

A. I started out as the deputy campaign manager, and then she left to take care of her mom, and I stepped up as campaign manager.

Q. Okay. And what sort of general duties did you have?

A. Everything. Yeah, I can go into details, but anything that encompasses the campaign, I oversaw.

Q. As part of your job, would you try to get your colleagues motivated?

A. That's one of your biggest roles. [60]

Q. Would you try to set the tone?

A. Absolutely. If you have the worst tone, nobody will do anything. You have to be positive and a motivator all the time. And that's with the candidate down to the person who is holding a sign on the corner.

Q. And in your role, did you communicate with potential voters?

A. Yes.

Q. And what sort of tone would you try to project to those voters?

A. Always positive. I mean, you have to make sure that they want to vote. So you have to be positive with them all the time.

Q. You testified that you were harmed from the redistricting of Congressional District 6. Correct?

A. Yes.

Q. And you felt disenfranchised. Correct?

A. Yes.

MS. RICE: Objection. Mischaracterization. [61]

MS. WEBB: Fair enough.

Q. Just to clear that up, you testified that you felt you didn't have someone who speaks for you.

A. Correct.

Q. And did you talk with others in the former congressional district whether they felt harmed?

A. Yes. Uniquely, I can state that I spoke to 60,000 people in the district, and that's between festivals, knocking on doors, parades, anything you can imagine, and I'm serious. 60,000 people is not exaggerating. And every time we were out, we met somebody who said, it's not worth voting anymore, every single time.

Q. Over what period of time were you speaking to all these people?

A. When I got involved in the campaign until the election night in November.

Q. And when did you first get involved?

A. I think it was in October, I think. Honest to God, I don't know the exact date. [62]

Q. October of—

A. It would have been 2011.

Q. Okay. 2011?

A. Yes.

Q. So over—

A. Not 2011. Excuse me. It was 2014. So it would have been 2013. Sorry.

Q. 2013?

A. Yeah.

Q. Until the present?

A. Correct.

Q. And would you—you mentioned some ways you were talking to people, parades, festivals.

Could you elaborate?

A. Myself, I probably made a thousand phone calls. The volunteers made way more than that. And so I didn't have that much time to make phone calls. But every time I got on the phone, I'd call like 50 people, and at least one person would say, I'm not, I don't know why I should vote, and, of course, it was my job to try encourage her to vote because, I'm saying she, as [63] in she or he, okay, they just feel disenfranchised that they can't, they don't have somebody that represents them anymore.

There was an old guy at a festival in Cumberland that came over, and it was so disappointing because you could tell he was the salt of the earth, that he worked hard every day, dirt under his fingernails, in his coveralls, and he just stopped there to get a ham sandwich, and we talked to him, and he said that there's just no point in voting anymore because nobody represents us in Cumberland anymore. So, I mean, it's a valid point that I heard continuously.

Q. Anymore being when?

A. After the redistricting. I'm sorry.

Q. And do you agree with them? Do you feel that as well?

A. Absolutely. I had a rough time this last go-around with Amie Hoeber even getting excited or even wanting to give my time because I just knew it was a losing race. There was no chance

that Amie was going to win, even though she had [64] money and he had money. She lost by 14 percent or a little over 14 percent.

Q. Just one more quick question about Exhibit 11, which you have there in front of you. If you turn to the third page of Exhibit 11, you were asked some questions about an e-mail here from a Michael Hough.

A. Hough. That's all right. I called him that until he corrected me.

Q. Sent November 8th, 2014. And does the e-mail that you see here include some statistics?

A. Yeah.

Q. Do you know for a fact that these are accurate?

A. No.

Q. Okay. Thank you.

A. As I said, I didn't look at stuff after the race. I was in recovery.

MS. WEBB: Thank you.

MS. KATZ: We are going to ask a couple. Take a quick break for a second.

(Break taken.) [65]

EXAMINATION BY MS. RICE:

Q. One question remaining.

So as I understand what you just said, that you had encountered many people that told you that they weren't excited about voting anymore. Is that correct?

A. Uh-huh.

Q. Do you know anyone who actually did not vote?

A. No, because I would have no way of knowing that information.

Deposition of Plaintiff Alonnie L. Ropp

Q. State please your full name.

A. Alonnie Louise Ropp.

MS. KATZ: Okay. Great. And I'm going to—we are doing this sequentially.

(Whereupon, Ropp Deposition Exhibit No. 12, Notice of Deposition, marked.) [6]

BY MS. KATZ:

Q. Take a look at this document. Do you recognize it?

A. Yes, ma'am.

Q. Can you tell me what it is?

A. It is the request for me to appear and provide my oral comments.

Q. Okay. Great.

And you are the person who is represented in this notice?

A. Yes, ma'am.

Q. Okay. Wonderful.

Have you ever been deposed before?

A. No, ma'am.

Q. Okay. I'm just going to go through a few sort of housekeeping rules that will help make this go smoothly.

So because the court reporter is typing down everything we say, I'm going to ask that you wait until I finish a question to provide an answer and that you provide a verbal answer. And then I will wait until you are finished answering [7] a question to pose a new one. And, again, please provide verbal responses.

If you do not understand a question that I ask you, just let me know. If you don't tell me that you don't

understand a question, I'm going to assume that you do understand it. Okay?

A. (Witness nods head.)

Q. We are going to try to make it through—well, actually, we are going to break at 2 because Sarah has to step out.

If you need to use the bathroom or take a break before that time, just please let me know. We can break at any time. We will find a good time to break.

And then, are you taking any medication that may affect your ability to recall events or to testify today?

A. No, ma'am.

Q. Okay. Thank you.

So Ms. Ropp, where do you live?

A. I live in Middletown, Maryland. And I live at 8543 Pete Wiles Road. Based on the [8] deposition, I did want to point out that the, request that the address has changed.

Q. Okay. So the address on the second amended complaint is no longer your, where you reside?

A. Uh-huh.

MR. MEDLOCK: I want to make sure the record is clear. The address, although on our interrogatory responses, is that address.

MS. KATZ: Okay. Great. Thank you. I'm not sure we had these when we did these, but thank you for clarifying.

BY MS. KATZ:

Q. How long have you lived at that address?

A. One year.

Q. One year. Okay.

And we're going to talk in a few minutes about where you lived previously.

How many years of schooling do you have?

A. Can you clarify?

Q. What was the last year of school that you attended? I assume you graduated from high [9] school.

A. Uh-huh. I graduated from high school, and I completed my Bachelor of Arts, yeah.

Q. Where did you go to college?

A. Mount St. Mary's College, it was college at the time, but University. That is where I concluded my studies for my Bachelor's degree.

Q. Is that here in Maryland?

A. Yes, ma'am.

Q. In St. Mary's County?

A. No, actually, in Emmitsburg. Mount St. Mary's. Then there's a St. Mary's.

Q. Okay. Great. What kind of work do you do?

A. I work with an insurance company.

Q. Which insurance company?

A. It's NASW Assurance Services, and it's a for-profit entity.

Q. And what do you do for them?

A. I'm in underwriting and quality assurance analyst.

Q. How long have you been there? [10]

A. If I can point out, I spent two years with the organization completing in June of 2015, and I started working with them again May of 2016 to present.

Q. And what did you do in between?

A. I was actually caring for my parents who were ill.

Q. Sorry to hear that. And what did you do before that?

A. I actually was a stay-at-home mom.

Q. How many kids do you have?

A. Two.

Q. That's nice. I have three girls, so I can relate. Okay. Great.

Do you recall when you first registered to vote?

A. Yes. I registered in 1991.

Q. In 1991?

A. Uh-huh.

Q. Okay. And how old were you at that time?

A. Twenty, approximately.

Q. And where were you living at that time? [11]

A. In Frederick, Maryland.

Q. Do you recall what congressional district that was in?

A. 6 at the time.

Q. And do you recall who your congressional representative was in 1991?

A. Yes, Roscoe Bartlett.

Q. And where in Frederick were you living at that time? Do you remember your address from 1991?

A. Actually, dial back. I'm getting my years together. That would be an address on Taney Avenue in Frederick, Maryland.

Q. Okay. So from—when did—did you move out of Frederick since 1991?

A. Briefly. I did move out of the state in 1997.

Q. And where did you move to?

A. Pennsylvania. Hanover, Pennsylvania.

Q. Isn't that where they make Utz?

A. Uh-huh.

Q. And so from years 1991 to 1997, just to [12] be clear, you lived in Frederick, Maryland?

A. Uh-huh.

Q. And do you know if during all of those years you were in the 6th congressional district?

A. Yes, ma'am, I was.

Q. Okay. And during those years, did you vote regularly?

A. No. In my youth, I did not vote regularly. I tended to miss the gubernatorial elections in those years.

Q. Do you recall if you voted in primary elections during those years, 1991 to 1997?

A. Likely not.

Q. Do you recall if you would have voted in the presidential, the general presidential elections during those years, 1991 to 1997?

A. Yes.

Q. You think that you did?

A. Uh-huh.

Q. Okay. Do you recall if when you voted in those general elections you would have also voted for your congressional representative? [13]

A. Yes.

Q. And do you have any recollection of who you would have voted for to represent you as your congressional representative during that time 1991 to 1997?

A. Yes. I would typically select Roscoe Bartlett.

Q. So when you say typically, does that mean that you think that you voted for him every opportunity that you had to vote for him?

A. I did.

Q. Okay.

A. I apologize for the use of the word typically.

Q. Don't apologize. It's my job to try to clarify if I feel I need clarification on something.

And when did you move back to Maryland from Pennsylvania?

A. 2000.

Q. And where did you move when you came back to Maryland? I'm sorry. What city did you move [14] to?

A. Frederick.

Q. Frederick. So you moved back to Frederick?

A. Uh-huh.

Q. And have you lived in—how long were you in Frederick after you moved back in 2000?

A. I'm sorry. Can you repeat the question?

Q. How long did you live in Frederick after you moved back in 2000?

A. Two years.

Q. Do you recall if during those two years you would have voted in any election?

A. In—oh, goodness. If you will bear with me one second, one moment.

Q. Sure.

A. I remember in particular voting for a presidential election not long after I returned to the state.

Q. Okay.

A. Yes, ma'am. And I did an absentee ballot that year. [15]

Q. So you think that would have been in 2000?

A. Uh-huh.

Q. And when you say it was an absentee ballot, do you think you would have voted in Pennsylvania?

A. No.

Q. Okay.

A. The reason I provided an absentee ballot because I was on business travel on election day, and I remember specifically going to the Elections Board to put that in.

Q. Do you recall in that election you also voted for your congressional representative?

A. Yes.

Q. Do you recall who you voted for?

A. Yes, that would have been Roscoe Bartlett as well.

Q. I'm sorry. I'm going to take you back in time for a moment.

When you lived in Hanover from 1997 to 2000, do you know who your congressional [16] representative was?

A. No, ma'am. I don't remember.

Q. Do you recall if you voted when you lived in Pennsylvania?

A. I did.

Q. Do you know if you voted—do you know which elections you voted for, in which you voted when you lived in Pennsylvania?

A. I don't remember.

Q. Do you recall if you voted for your congressional representative when you lived in Pennsylvania?

A. I don't remember specifically who I chose, but I should point out, typically, if you go to the polls every two years, you are going to vote for your congressional representative.

Q. Okay. In 2002, where did you move?

A. Middletown, Maryland.

Q. I'm not very familiar with Middletown. What county is that in?

A. Frederick County.

Q. And so have you lived in Middletown from [17] 2002 through present?

A. Yes, ma'am.

Q. And so now I want to ask you about your voting history from 2002 to the present. Do you recall if you voted regularly during that time?

A. What would your interpretation of regularly be?

Q. That's a great question.

Do you recall if you voted in every election in which you've had an opportunity to vote during that time?

A. I would say I may not have utilized all of my primary opportunities before 2010.

Q. Prior to 2010, and I just want to be clear about this, is it that you don't recall if you voted in primary elections or you don't think that you did?

A. I actually do not recall.

Q. Do you recall if you voted in presidential, excuse me, in general elections during that time period?

A. I do recall that I did vote in most [18] general elections.

Q. And would that include gubernatorial elections?

A. I would say beyond a reasonable doubt, and we are going to go with that, 2010 I voted that gubernatorial election.

Q. Okay.

A. And definitely the 2014 gubernatorial election. Prior to that point, I didn't take a look at the voter data. I did not make a marked review of that.

Q. Okay. And just so I'm clear, have you voted in every election in which you had an opportunity since 2010?

A. Yes, ma'am.

Q. Okay. And that includes primary elections?

A. Yes, ma'am.

Q. Okay. Great. Thank you.

Are you registered as a member of a political party?

A. Yes, ma'am. [19]

Q. Which one?

A. Republican.

Q. And do you recall when you first registered as a Republican?

A. That would have been when I first registered.

Q. Have you always registered as a Republican?

A. Yes, ma'am.

Q. Have you ever registered with another party?

A. No, ma'am.

Q. Have you ever voted for a candidate who was not a Republican?

A. Yes, ma'am.

Q. When would that have been?

A. In 2010, in a general election, there was a county commissioner race where you selected five positions, and one of the positions I voted for a Democrat.

Q. Do you recall who that was?

A. Yes. Michael Kurtianyk. [20]

Q. Okay. And why did you vote for him?

A. Because based on the last remaining choice in my political party, his fiscal perspective and the community organizations that he was a part of and I was a part of, I chose him because his belief system was very similar to mine.

Q. Do you recall what organizations he was a part of that you were just referring to?

A. He was—I'm trying—a lot of community organizations, a lot of non-profits. I hesitate to mention all because not all come to mind at this point.

Q. Do any come to mind?

A. He was part of—I don't have it beyond reasonable doubt, but I remember being in conjunction and seeing him at the different organizations and church as well.

Q. And in your initial answer as to why you voted for him, I believe you also said that you shared some political beliefs. Do you recall what those were? [21]

MS. WEBB: Objection. Mischaracterizes the testimony.

Q. You can answer the question. In your prior answer, did you say you shared some political beliefs with the Democrat that you voted for in that election?

MS. WEBB: Same objection.

Q. Do you recall?

MS. WEBB: Same objection.

A. I would restate it to say, it was, if you categorize a fiscal perspective instead of an ideology.

Q. What was that fiscal perspective?

A. Well, it was a county commissioner position and our county commissioners facilitate economic development in the community. They facilitate land

use policies. And his thoughts in that area were consistent with mine.

Q. And can you just be more specific about what those thoughts are that are consistent with yours?

A. Well, it was in 2010 and our county has [22] changed, so I can't do that with specificity.

Q. Is that because you don't remember?

A. I don't remember.

Q. Okay. I believe you said this, but I just want to clarify. That person was a Democrat that we were just talking about?

A. Yes. He was part of the Democratic party.

Q. Do you recall if that was the only time that you've ever voted for a candidate who was not a Republican?

A. I believe that's the case.

Q. Okay. Did you ever vote for someone other than Roscoe Bartlett when he was on the ballot?

A. No, not when he was on the ballot. Obviously the ballot changed later, so I had different choices later.

Q. And when you say later, are you referring to after 2010?

A. Uh-huh.

Q. Do you recall who you voted for to be [23] your congressional representative in 2012?

A. Yes, ma'am.

Q. Who was that?

A. Ken Timmerman.

Q. And do you recall who you voted for to be your congressional representative in 2014?

A. Yes.

Q. Who was that?

A. Dan Cox.

Q. Do you recall who you voted to be your congressional representative in 2016?

A. Excuse me. Hold on. 2016, just for full clarity, was congressional candidate Cox. And fast forwarding, I realize I made an error in my Congressional races.

So in 2016, we have Dan Cox. 2014—if you will bear with me. It will come to me.

Q. Okay.

A. I know the folks personally. And you know how you have a face in front of you. The name is not happening.

Q. I know. We can move on. If it springs [24] into your head, which sometimes an answer to a question will, you can just shout it out later.

A. It will come at the most inconvenient time, but I will share it later.

Q. Call me tomorrow.

A. No, it will come today.

MR. MEDLOCK: Call us first and then—

Q. No. No. Of course. Okay. What are the qualities that you look for in a political candidate?

A. I look for somebody who has a solution that makes fiscal sense.

Q. How—I'm sorry.

A. And I look for a candidate that really, in all reality, I look at each and every different area of interest that is important to me and my family at the time, and keep in mind not every candidate will represent each and every circumstance a hundred percent of the time, but I go with the candidate that

represents the vast majority of the issues and sees the vast majority of the issues the way that I do. [25]

Q. The first thing that you mentioned was solutions that make fiscal sense. How do you define fiscal sense? What does that mean to you?

A. It is important to me to have legislative solutions, whether it be local, state, or federal, pursued in an economically feasible setting, and that that is part of their solution that they are concerned about. So it's one of the decision-making elements in forwarding that solution.

Q. If a candidate shared these values, would it matter to you what party they belonged to?

A. There's a difference between sharing a value and having an experience or a record of voting circumstances that lead me to believe that person may or may not have pursued that direction. And so if the activities of the individual that I was vetting as a candidate showed fiscal responsibility in all their decision making, then I would consider them, but I haven't found a person, well, I found folks to do that, to orchestrate that. [26]

Q. What does that mean you found folks to orchestrate that?

A. Every candidate that I've chosen has a record, either a voting record or outlines a plan that reflects a responsible fiscal direction.

Q. If you found a candidate that had a voting record or outlined a plan that reflected responsible, a responsible fiscal direction, would it matter to you if that candidate were a Republican or a Democrat?

A. I haven't found one.

Q. Is a voting record for outlining a plan that reflects responsible fiscal direction more important to you than whether somebody is a Republican or a Democrat?

MS. WEBB: Objection. Vague.

A. Can you explain?

Q. I guess what I'm trying to get at, if you were vetting a candidate, and the way that you described the things that you are looking for most are a voting record or somebody who had outlined a plan that reflected responsible fiscal [27] direction, so what I'm asking is, if a candidate met either of those criteria, but happened to be a Democrat, would you consider voting for that person?

MS. WEBB: Objection. Vague. Calls for speculation.

A. Funny thing. I found these candidates and they typically have been a Republican.

Q. If you had to choice between a Republican who did not have a voting record of responsible fiscal direction and a Democrat who did, who would you vote for?

MS. WEBB: Objection. Vague. It's a hypothetical.

A. Based on the—can you repeat the question?

Q. Sure.

What I asked is, if you were choosing between a Democrat who had a voting record of responsible fiscal direction and a Republican who did not, who do you think you would vote for?

MS. WEBB: Objection. Speculation. [28] Hypothetical.

A. What is your interpretation of a fiscal direction? I'm just trying to get your parameters.

Q. That's what you described as what you look for in a candidate.

A. Uh-huh.

Q. So maybe you can provide me with some more explanation of what you mean by that.

A. Well, I haven't found a Democratic candidate that has a voting record that has supported the fiscal responsibility that I'm looking for.

Q. What fiscal responsibility are you looking for?

A. When legislation is approached and reviewed, the pieces of legislation—basically I just look at who votes for legislation that is not fiscally responsible. I've found the data in that. So basically I just have to look at each piece of legislation and then I judge whether it's fiscally responsible or not. Basically it [29] is relative to the position in office. It is also relative to all the votes. And it's also relative to the legislation that I view as not fiscally responsible tends to have the folks that I don't vote for.

Q. Okay. So were you affiliated with the Dan Bongino 2014 congressional campaign?

MS. WEBB: Objection. Vague.

Q. You can answer the question. You can answer the question.

A. What would you define as involvement?

Q. I said affiliated.

A. Affiliated.

Q. Were you affiliated with his campaign?

A. I guess what is your definition of affiliation because I know how, where my thoughts were in that regard, but I'd like to hear your definition of affiliation so I make sure that I give you exactly what you are asking.

Q. Did you volunteer for the campaign or work for the campaign in any way?

A. No, not in 2014. [30]

Q. Did you work on his or volunteer on his 2012 campaign?

A. Yes.

Q. For Senate?

A. Yes, ma'am.

Q. Okay. But you were not involved in his 2014 congressional campaign?

A. No, I did not hold a position in his 2014 campaign.

Q. You said you didn't hold a position. Did you go to events for his campaign that year?

A. I did attend, I know what comes to mind definitely one event.

Q. Which event was that?

A. There was a picnic.

Q. Do you recall where that was?

A. Yes. That was somewhere in Montgomery County, I believe.

Q. Do you recall when that was?

A. It was very early in the campaign. I think it was the day he announced.

Q. Did you get regularly updates from the [31] campaign by e-mail?

A. Yes, I did. Did I read them? No. Not to be mean. I was just very busy.

Q. I can relate.

A. Before the next question, I wanted to tell you I remembered something.

Q. Okay. Great.

A. The 2014 candidate, he came into mind and, okay, his name has left me again. I will return to it. Hello.

Q. No problem.

A. I have his face in front of me. Wallace, Dave Wallace. Thank you.

Q. We've got it on the record. You can now forget it forever.

When you worked on Mr. Bongino's 2012 campaign, what was your role?

A. I was a volunteer coordinator.

Q. Did you give any money to his 2014 congressional campaign?

A. Yes, ma'am.

Q. Did you do any—did you talk to [32] potential voters on his behalf during the 2014 congressional campaign?

A. No.

Q. Did you talk to any voters just sort of on your own regarding him in 2014 trying to encourage people to vote for him in 2014?

A. Okay. I just remembered something related to the last question. Can I answer that before I address that?

Q. Absolutely.

A. And then I will have you restate the question. I'm sorry.

Q. No problem.

A. When you asked me if I spoke to voters on his behalf in the 2014 race, I was interpreting, even though you didn't say it, I was interpreting it related to the primary. During the primary I did not engage in suggesting a candidate because it was primary season and there were several candidates running for the office.

Post primary, between the primary and the general election, I definitely spoke with people [33] or engaged, but in a non-organized fashion, if the topic came up, which it rarely did because in my professional life, that wasn't an area that was ever spoken about. But if the opportunity came up in my circles of influence, which they were rather limited, I did promote the candidate, Dan Bongino, when asked between primary to general in 2014.

Q. And so this was just you as an interested voter talking to people and not as a part of the campaign is sort of what I just heard you describe, so correct me if I'm wrong.

A. Exactly. And then, also, I served on the Republican Central Committee at the time, so it was my duty at the time to promote all of our Republican candidates running in our geographic territory.

Q. Is that the Frederick County Republican Committee?

A. Yes, ma'am.

Q. Okay. Did you believe that Mr. Bongino could win his Congressional election in 2014? [34]

A. I actually did not have an opinion as to whether he could or couldn't win. The assumption for every candidate that runs for office is that their ideas will allow them to prevail at the ballot box.

Q. When you were talking to people in that limited role you were describing, encouraging them to vote for him after the primary and before the general, did you find that people were planning to vote for him?

MS. WEBB: Objection. Vague. Speculation.

A. Can you restate the question with a little more specificity?

Q. Sure.

When you were talking to people in that sort of informal role you were describing, did you encounter people who were excited to vote for him?

MS. WEBB: Objection. Vague.

A. Well, oddly enough, most of the conversation in my county that I had to end up [35] going into before I'd even engage the person I was talking to was gaining, and educating, and facilitating, and understanding of what district they were in so they knew who they would be considering.

So if there was any time left over, whomever we were considering, whether we were running District 8 or running District 6, depending upon where the person lived, if there's any time left over, of course I suggested the candidate at the time.

Q. Okay. When you would speak with a potential voter, did you attempt to gauge whether that person intended to vote in the upcoming election?

A. I would ask them if they intended to vote, yes.

Q. When you would have those conversations, was your experience that people did intend to vote?

MS. WEBB: Objection. Vague. Speculation. [36]

A. Can you restate the question?

Q. When you would have those conversations, how would people typically respond to you?

MS. WEBB: Same objections.

A. Well, you have to understand that in the course of a conversation, the first thing that you start with when you engage folks in your community could be a multitude of different topics. If the topic would come up, I found myself spending most of my time explaining why in the same county we had a num-

ber or two different congressional candidates. And where do I live? What district am I? Then who should I be considering from your vantage point? Who's the opposition? And so I would share when we spend most of our time getting through there.

Q. And do you recall ever having someone say to you that they were not going to vote?

A. Uh-huh.

Q. What do you recall about those conversations?

A. Quite frankly, it would just come up in [37] the conversation. I would ask why, and a large percentage of folks, if they had historically voted, they were confused about the candidates. They didn't know who they should be engaging. It was a very confusing situation for them that year.

Q. Do you recall why any particular person was confused?

A. Uh-huh. In our community, we had two congressional districts represented and the lines for it were very confusing. So somebody in town, in this town, part of that town could be part of District 8, part of District 6. So we spent most of our time on the hand-held devices trying to verify the addresses and figuring out if they were in the part of this town that was in this district or that district.

And then by the time you get through 20 minutes of that conversation, they were like, well, if they are going—there was definitely some concern that it was made to be too confusing for people who had a certain amount of time, and [38] they felt as though they didn't want to participate that time because it seemed too confusing. They felt as though they might make a wrong choice.

Q. Aside from that confusion that you just described, do you recall people giving you other reasons why they may not vote?

A. I'm sure they did, but I don't recall it with specificity.

Q. Okay. Do you consider yourself to be politically active?

MS. WEBB: Objection. Vague.

A. Can you specify a time frame?

Q. Sure.

Since 2010, since you sort of—I think earlier in your testimony you described that you started voting regularly in 2010. So since 2010, would you consider that you've been politically active?

A. I guess what—the reason I ask is for your interpretation of what politically active is. [39]

Q. Have you ever worked on a campaign other than Dan Bongino's 2012 senatorial campaign?

A. Yes, one other in 2010 for a delegate race for the State House.

Q. Whose race was that?

A. Kathy Afzali.

Q. Okay. Any time prior to 2010 did you work on a political campaign?

A. No, ma'am.

Q. Not even as a volunteer?

A. No.

Q. Since 2010, have you volunteered on a campaign other than that delegate campaign or the 2012 senatorial campaign?

A. No.

Q. I think you described a picnic that you attended that was part of Dan Bongino's campaign in 2014.

A. Yes.

Q. Other than that, have you ever attended an event held by your congressional representative or any congressional [40] representative? We will start with your congressional representative.

A. For Dan Cox this year. No, no, I did not attend any events for the congressional candidate. Since 2012, just for clarity, or, actually, 2014, since 2014, I have not been attending political events.

Q. But you did prior to 2014?

A. Periodically. I was part of a Central Committee, so we had an annual fund-raiser. That was a typical event that was coordinated and attended. So if you are talking about specific support of a specific individual, that would only be relegated the two folks we have before us today that you mentioned.

Q. That would be the 2010 delegate race and—

A. Senatorial race. And I did attend a fund-raiser for or the fund-raiser for Dan in his congressional race.

Q. Is that the picnic you were talking about or is that something else?

A. There was a picnic, and I'm sure that I attended a couple other events, but I just don't remember which ones. [41]

Q. Was the fund-raiser the picnic or was that a different event?

A. Well, he had several fund-raisers, so I'm sure that I went to more than one.

Q. Okay. What did you do at those fund-raisers?

A. Enjoyed the company.

Q. Did you do any political work?

A. No.

MS. WEBB: Objection.

Q. You were just an attendee?

A. (Witness nods head.)

Q. Got it.

Would you pay to attend those fund-raisers?

A. Yes, ma'am.

Q. Let's start with when you lived in Maryland prior to your move to Pennsylvania. So from the time that you registered to vote, let's [42] say, in 1991 to 1997, do you recall if you ever contacted your congressional representative for any reason?

A. I don't recall. I'm pretty sure I did, but I don't remember what it was about, but I'm pretty sure I did.

Q. In that instance, do you remember who you would have contacted?

A. I typically would contact Roscoe Bartlett's office.

Q. And since that was I think before e-mail was the only way people communicate, do you recall if you would have done that by phone or in person? Do you recall how you made that communication?

A. I believe it would have been a phone call, if I needed something. As I say, I don't remember.

Q. Sometimes when we talk about things, it sort of like jogs the memory. That's why I'm asking you other questions.

So you think you probably made a phone [43] call to Congressman Bartlett's office sometime between 1991 and 1997. Is that correct?

A. Uh-huh. I think it was just a question about a passport because I obtained my passport for the very first time. I needed some guidance.

Q. Okay. And then since you've moved back to Maryland, which was I believe you said 2000, since you moved back to Maryland in 2000, do you recall if you have contacted your congressional representative constituent services?

A. Yes, I have in between I think 2004 and 2005. If I remember correctly, in 2005 we had an issue obtaining my infant's passport.

Q. And so do you recall what form that communication took?

A. That was actually a point of contact that my husband initiated, and that was via e-mail and phone. I know we worked significantly by phone.

Q. And, again, I'm sorry. That was with Congressman Bartlett's office?

A. Uh-huh.

Q. Were they able to help you? [44]

A. Yes.

Q. And since that time, 2004 to 2005, do you recall contacting your congressional representative's constituent services at any other time?

A. Not the constituent services, no. Uh-uh.

Q. Okay. How else have you contacted your congressional representative?

A. Typically if I would ask a question about an issue or if I would share any thoughts on a matter, I would e-mail them, but that was typically via e-mail.

Q. And do you recall what sorts of issues you e-mailed your congressional representative about?

A. School choice, charter school events.

Q. And do you recall who you would have made those communications with, the school choice and charter school events?

A. The elected official in the position at the time.

Q. Okay. So when you lived, or prior to [45] 2012, would that have been Congressman Bartlett's office?

A. Sure.

Q. Do you have a specific recollection of communicating with Congressman's Bartlett's office about school choice and charter school issues?

A. No, because at that time we did not attend one.

Q. Okay. So when you say that you contacted your representative about school choice and charter school issues, who were you referring to? Which representative?

A. That was within the last year. I had touched bases with at the time it was Van Hollen's office, and he's our senator now, but that was 8 and then the 6, Delaney.

We had an event at the school and I did ask them if they would enjoy the event with us.

Q. Did you hear back from those offices, from those communications?

A. Oddly enough, I did hear back from—[46] keep in mind, and this goes back into some of the confusion, our central location for most of our events or when you offer a charter school, you want to offer a school in the middle of the county and that would be Frederick City. So our congressman in Frederick City is Congressman Delaney, but my actual congressman at the time was Congressman Van Hollen, but now senator. So that was why I would

have been in contact with his office. But Congressman's Van Hollen's office did not respond and I know Congressman Delaney's did.

Q. Do you know how Congressman's Delaney's office responded?

A. Uh-huh.

Q. How is that?

A. Responded via e-mail. It appears they put me on an e-mail list as well.

Q. Okay.

A. Even though he's not my representative. But—and I believe Congressman Delaney, even though he is not my Congressman, but he is [47] Frederick City's, they sent somebody along to go to the event, but not himself.

MR. MEDLOCK: I don't want to interrupt your flow, but it's 2 o'clock.

MS. KATZ: Okay. Thank you. Thank you. I will ask one more question and then we will break.

Q. I just want to be clear, a representative from Congressman Delaney's office came to the event that you invited Congressman Delaney to attend in Frederick City?

A. Just so you know, I was not inviting him on behalf of myself. I was inviting him on behalf of the school.

Q. Okay.

A. So it was not a personal invitation. It was building an awareness for an event. Wouldn't they like to come?

Q. And the invitation came from you?

A. It was penned by me, but as a board member of that school.

Q. Certainly. I understand. [48]

MS. KATZ: Okay. Great. We will break.

(Break taken.)

(Ms. Rice was not present for the remainder of the deposition.)

BY MS. KATZ:

Q. Why did you become politically active in 2010?

MS. WEBB: Objection. Vague.

A. Can you be more—

Q. Sure. I think you described you started voting regularly in 2010. When did you become—when did you join the Frederick County, what was it, Central Republican Committee?

MS. WEBB: Objection. Mischaracterizes the testimony.

MS. KATZ: That she became involved with the Frederick County—

MS. WEBB: That she started voting regularly in 2010?

MS. KATZ: That's what she told me.

Q. Isn't that what you told me? [49]

A. I have a distinct memory of my actions as to whether I attended primaries and general from 2010 solidly going forward. Before that it was intermittent. I'm not sure if I hit every primary and every general is what I was trying to say.

Q. So you have a memory of voting—

A. 2010 going forward.

Q. Got it. When did you become involved with the Frederick County Republican Central Committee?

A. That would have started in 2011.

Q. Why did you become involved with that organization?

A. I was a volunteer for many candidates, supporting many candidates in the general election in 2010. So during my volunteer efforts, I found that the coordinating body of the party and the candidates that I tended to support happened to be embodied in the Central Committee.

Q. Which candidates did you volunteer for in [50] 2010?

A. I just volunteered for Kathy Afzali. However, after she made it through the general election, I ended up meeting and actually personally knowing more so the other candidates in the field. Even though I knew their positions and whatnot, I tended to know them personally as well.

So a lot of my efforts not only engaged on my specific candidate, but I also worked to leverage a lot of the things that I did for the one candidate, and these are like more administrative tasks, and helped some other candidates in that regard.

Like I will give you an example. Sign distribution on election day, all of the polling stations, so I would carry other signs if other folks needed help kind of thing. So just administrative duty.

Q. Thank you. What does the Frederick County Republican Central Committee do? [51]

A. They coordinate, get out the vote efforts.

Q. Anything else? Oh, I'm sorry.

A. And the purpose of the Central Committee is a coordinative entity and a supportive entity.

Q. And how are they a supportive entity?

A. After primary season is over and the nominees are selected, they work to coordinate events and administrative efforts like the one that I just detailed

to assist the candidates running for office in the general election.

Q. And what did you do for that organization?

A. Exactly what I just outlined. I assisted in that way.

Q. Did you have like a position name at the organization?

A. I was a general member until November of 2013. Oh. Shortly before that I was a supportive position. I was co-chair for a little bit before November, 2013. And then from November, 2013, until June, 2014, I served as the chair of that committee.

Q. What did you do as the chair of the committee? What were your responsibilities?

A. Support all of the efforts that we outlined in the previous question.

Q. Okay. I don't think I've asked this. Why did you get involved with the Frederick County Republican Central Committee?

A. Because they supported the candidates that I supported as well.

Q. Do you recall if there was a reason that you—do you recall why in 2010 you decided to get involved in—I'm sorry, I'm not going to be able to say her last name—the delegate's campaign?

MR. MEDLOCK: Afzali.

MS. KATZ: Afzali?

MR. MEDLOCK: Yeah.

Q. Do you recall why you decided to get involved in her campaign?

A. Yes. Yes. Uh-huh.

Q. What were those reasons? [53]

A. I was very cognizant of activities on a national and becoming more focused on state laws and local laws, and I found that my participation was something that would help promote candidates that would make better choices. And that my only way to do that is seek and find and support those candidates.

Q. What state laws were you particularly concerned about?

A. At the time?

Q. Yes.

A. Actually, you know what? They changed so much since then. I was actually disappointed in many of the laws affecting our farmers and our local economy at the time. My county happened to be at the time the leading milk producer in the state and the population of that group was severely receding.

Q. I think you just identified farming issues.

A. Yeah.

Q. At the time. [54]

Were there any other issues that you were concerned about at the time?

A. I would say that issue was one of the most severe, but there were a number of other issues, and, quite frankly, they just do not come to mind at this point.

Q. Okay. Who is Blaine Young?

A. He was a previous elected official in Frederick County.

Q. What office did he hold?

A. I believe he was a county commissioner. Actually, I know he was a county commissioner.

Q. Is that somebody you supported politically?

A. In what year?

Q. 2014.

A. Yes.

Q. How did you support him, Blaine Young?

A. Well, quite frankly, the area, I did not provide any campaign contributions. During the time frame between November and June of 2014, I was the chairman of the Central Committee, and [55] during primary season I supported no candidate for County Executive. In that case he was running for County Executive.

The reason I didn't support a candidate during primary season is because when you are with a political organization, and it runs the same way on the other side, you do not endorse or give any extra effort toward any candidate when there are other persons in the primary. So I did not outwardly and even, I definitely didn't even volunteer for his campaign at all.

So, in 2014 after the primary, I resigned from the Central Committee or, actually, no. I was not chair. I resigned as chair in June. So from the primary until the general election, I was a Central Committee, regular Central Committee member, and at that time I was not active on any candidate's campaign at that point.

Q. Why did you resign as chair in June of 2014?

A. We had a death in the family. My brother died in April and we were assisting in efforts in [56] that regard.

Q. I'm very sorry to hear that.

A. Thank you. And I didn't think it was fair if I sat in that position between the primary and general. We

needed somebody more available and more present.

Q. I understand. Did Blaine Young win the general election in 2014?

A. No.

Q. Based on your knowledge of Frederick County politics, why do you think he lost?

A. I don't know. You would have to ask all the voters and why they chose that way. Quite frankly, I didn't ask folks. It wasn't a conversation that I had.

Q. Okay. When was the first time you became interested in redistricting?

A. As soon as it was proposed in like 2011.

Q. Okay. So prior to the 2011 redistricting process, prior to that process, did you have an [57] interest in redistricting?

MS. WEBB: Objection. Vague.

A. I had an interest in following the process.

Q. Okay.

A. And reviewing that process.

Q. Okay. Have you ever testified before a political body about redistricting?

A. No.

Q. Have you ever submitted a written comment about redistricting to an elected official?

A. No.

Q. Have you ever called an elected representative about redistricting?

A. I spoke personally with the elected officials at the time regarding my concerns.

Q. Which elected officials were those?

A. At the time it would have been my two delegates, Kathy Afzali, and at the time Delegate Kelly Schultz. And then also I shared my comments with at the time my state senator, Senator Brinkley. [58]

Q. And that was in 2011? Those contacts took place in 2011?

A. Uh-huh.

Q. I think you said this. I'm sorry. Those were in person?

A. Uh-huh.

Q. Those comments were in person to those individuals?

A. Uh-huh.

Q. Did you help gather signatures on a petition related to redistricting?

A. I believe I did.

Q. Do you know when that was?

A. I don't recall the date, but I know the time frame, that was appropriate. It was very few in number on that petition.

Q. Okay. Do you recall when you first found out about the 2011 congressional redistricting cycle?

A. No. I don't have a date, an exact date in mind. I do know that as soon as the information was available, I was attempting to [59] share with folks because of our concerns.

Q. When you say the information was available, what information are you referring to?

A. The map. I'm more of a visual person. Probably the advertisement as to what was happening was more so available when the map was available.

Q. Do you recall if that was before the legislation was passed?

A. I do know that I viewed it before the legislation was passed and also what was finalized.

Q. Okay. Did you testify before the Governor's Redistricting Advisory Committee?

A. No, ma'am.

Q. Did you post any public comments or submit any public comments to the Governor's Redistricting Advisory Committee after the plan was made public?

A. No. I shared it with my local to officials or my state officials.

Q. And do you recall voting on the [60] referendum specific to the redistricting plan?

A. Yes.

Q. Do you recall how you voted?

A. Honestly, quite frankly, I would have to have the words in front of me and then I can tell you how I voted.

Q. Okay.

A. I definitely voted to request that another redistricting plan would come forward.

Q. Great. Thank you. Aside from the comments with your two delegates and the senator that you described and your conduct in this lawsuit, have you taken any other action about redistricting after the passage of the plan in 2011?

MS. WEBB: Objection. Vague.

A. Actually, I did, and this is where a Central Committee is very valuable. Being a participant of the Central Committee, I work to make sure that at our events and also in the area of the folks that we

had contact with that we shared the implications of the changes in [61] district and made sure, tried to educate the public on the new realities within that map.

Q. Okay.

A. So I put together materials, help educate folks. We handed out palm cards. We handed those out during parades and gave them the candidates to consider and where do you live because it wasn't enough just to promote the candidate. You needed to spend half your time educating the public as to who they should be talking to.

Q. How did you first hear about this lawsuit?

A. I actually have a friend, a few friends that I knew from the Bongino campaign that I was reading some articles on their social media and happened to see that and read about it, and I, of course, follow national and global issues.

Q. And so did you reach out to them, the people whose comments you saw on social media, or did somebody talk to you?

MS. WEBB: Just a general caution not to [62] disclose any conversations you had with attorneys in this matter.

Q. After you asked to be represented in this matter.

A. Can you restate the question?

Q. So you said you first heard about the lawsuit like on social media.

A. Reading an article. There was a Washington Post article.

Q. That you knew from the Bongino campaign?

A. Uh-huh.

Q. So the follow-up question was, how did you join the lawsuit?

MS. WEBB: Objection.

Q. So without going into specifics, did somebody reach out to you to join the lawsuit?

A. In this case, my contact with my friend, I actually asked her about it, and contact was made at a later point regarding my interest.

Q. Contact from your friend?

A. I shared some opinions with my friend, but we didn't talk about a connection to any [63] interest in joining. And then from that point, I had some confidential communication.

Q. So somebody reached out to you and asked you to join this lawsuit?

A. I indicated I was interested.

Q. So you indicated you were interested to your friend? Who did you indicate your interest to?

A. I indicated I was interested in the topic to my friend, and then my communication from that point on I can't disclose.

Q. You can disclose who reached out to you about joining this lawsuit before you joined the lawsuit.

MR. MEDLOCK: You know what? It might be easier if we have a quick conversation off the record where I can direct her about privilege. Do you want to take a quick break?

MS. KATZ: I do, yes. Let's do that.

(Break taken.)

BY MS. KATZ:

Q. I think I asked who reached out to you to [64] ask you to join the lawsuit.

A. Okay. This is how the conversation pursued. I was very interested in articles and the topic because of my past experience. And Maria Pycha asked me if I was interested in the lawsuit, and I said, yes, I was. And after that point I was contacted by an attorney regarding it.

Q. Thank you. And why did you decide to join it?

A. Because I was very concerned that the changes actually divided my community. And when I say divided my community, our county is, if you look at a picture, the two congressional districts, we spent the 2012 and even the 2014 election really educating voters on the differences and making sure that when they were considering their candidates, that they were considering the right ones.

And usually as somebody who wants the voter to be met with the best information available, you don't want to spend time on those [65] matters. You want them to find the people that align with their interest.

Q. Okay. Thank you. Do you think that you were harmed by the 2011 congressional redistricting plan?

MS. WEBB: Objection. Vague.

A. How would you interpret or how would you like to define harm?

Q. Did it negatively impact you in any way?

A. I feel as though it negatively impacted my community, as well as myself, because it geographically split my community. In all communities, especially in Frederick County, and a lot of other areas are much like this, where you have outer lying areas and you have a central meeting point. Frederick City is our central meeting point, and I'm very ac-

tive in a lot of activities and they all culminate in Frederick.

When you know that people need to be the people running for office, you want to make sure they have the best opportunity to meet the people that they will actually be voting for on election [66] day. And I found as though folks, even very highly educated folks, being Ph.D.s, Master's, a number of different areas, they honestly did not believe that it had changed so significantly, not only with the, especially with the congressional map, because they didn't know who they should be voting for.

A lot of times I would be in a group of people and they would be like, well, I can't wait to vote for this person, and to have to explain to them, no, actually, you can't vote for this person because you are in this congressional district. Oh. Well, who are my candidates there and how do I meet them?

So it really divided the community, and it also placed a situation where there was a lot of extra steps that they needed to do along with others to make sure that they had that opportunity to vote and to be fully vested in the election cycle.

Q. How did it negatively impact you?

A. How did it negatively impact me? [67]

Q. Uh-huh.

A. I found that I was separated from areas that I aligned with. Like take, for example, speaking geographically, I live 10 miles away from a friend voting in a different congressional district. There was a disconnect between myself and my community as to who we would be voting for these positions.

Q. Anything else?

A. I also felt very harmed because I saw many people in my community very frustrated with the process and very frustrated that there were not clear lines drawn to keep everybody together.

Q. Okay.

A. I—yeah. Never mind.

MS. KATZ: Ms. Ropp, those are all the questions I have for you today. Your lawyers may have some.

MR. MEDLOCK: Can we have a quick break so we can confer whether we do, actually?

MS. KATZ: Absolutely.

(Break taken.) [68]

MR. MEDLOCK: I think we will have a few questions.

EXAMINATION BY MS. WEBB:

Q. A few more questions about some testimony you gave earlier. You testified that you registered to vote when you were 20 years old. Is that right?

A. Approximately, yeah.

Q. Okay.

A. Because that was the first presidential election after I turned 18.

Q. That you could vote in?

A. Uh-huh.

Q. Okay. And you testified that you voted in every presidential race after you turned 20 to the present. Correct?

A. Uh-huh.

Q. And then you also testified that in each of those you voted for a U.S. house representative?

A. Uh-huh.

Q. And do you recall voting in some of the [69] gubernatorial elections since you were 20 years old prior to 2010?

A. I know I did vote in the gubernatorial election at some point, but I don't remember how many, but I know particularly one.

Q. But you voted regularly in every presidential election since then?

A. Uh-huh.

Q. Thank you. You mentioned that you voted in the referendum on the 2011 redistricting. Is that correct?

A. I voted—

Q. I'm sorry. You voted on the referendum about the redistricting?

A. Yes, and that took place in 2012.

Q. And you mentioned that you would have to see the referendum text itself to remember how you voted.

A. Uh-huh.

Q. Whether yes or no. Correct?

A. Correct. [70]

Q. And why is that?

A. Because the wording did not show the visual as to the clear impact to the House of Representatives voting districts, and I found that one of the biggest promotional items that I gave before the referendum was not only why we were voting this way, but what was a picture of the actual voting districts. And I found that if I just gave folks a copy of the referendum, but not a picture to illustrate it, they would not orchestrate a decision based on the words because they felt as though the words were not clear to them, but the most clear example was

when they looked at the picture and the words, they were able, beyond a reasonable doubt, to put together their position as to being dissatisfied with the map and that they wanted the State to go back and consider a different map.

Q. So people didn't like the map when they saw it?

A. No. My concern was, is that the people that we didn't get to, which we really tried far [71] and wide to get to, the people that we didn't get to, that they would go into the ballot box not understanding, and there was a big undervote on those referendums, specifically that one.

Q. Did people talk about why they didn't like the map?

A. Yes, because, like I will give you an example, one of the reasons I was concerned was that I was in the 8th district here in a community where we had a mixture of economic development, agriculture, growth, and then we had Bethesda as part of it, and I didn't do any community activities in the central locations like Bethesda, and I didn't have a correlation with or an identity with the folks in that area. So I felt as though, and so did everybody else, depending on their circumstance, they felt as though there were areas of influence that were not reflective of their geography and their communities.

Q. Did the referendum include any pictures of the districts, the new districts? [72]

A. No. They did early on share some information, but that map was not available on the day of voting for the referendum.

Q. You testified, I will try to use your exact words, that there is an assumption that every candidate that runs has a real chance of getting elected based

on their views, if they are the right views. Do you believe that is true presently in the 6th district?

A. No, because there is—I've had exposure to voter data, voter attendance, and voter affiliation and identification, and there's no way that that is the case.